

1                   IN THE DISTRICT COURT OF THE UNITED STATES  
2                   FOR THE NORTHERN DISTRICT OF OHIO  
3                   EASTERN DIVISION

3       UNITED STATES OF AMERICA,           )  
4    )  
4                   Plaintiff,               )     Judge Wells  
5    )     Cleveland, Ohio  
5               vs.                            )  
6    )     Criminal Action  
6       JAMES A. TRAFICANT, JR.,           )     Number 4:01CR207  
7    )  
7                   Defendant.               )

8   - - - - -  
9                   TRANSCRIPT OF PROCEEDINGS HAD BEFORE  
10   THE HONORABLE LESLEY WELLS  
11   JUDGE OF SAID COURT,  
12   ON MONDAY, APRIL 1, 2002  
13   Jury Trial  
14   Volume 29

15   - - - - -

16       APPEARANCES:

17       For the Government:               CRAIG S. MORFORD,  
18   BERNARD SMITH,  
19   MATTHEW KALL,  
20   Assistant U.S. Attorneys  
21   1800 Bank One Center  
22   600 Superior Avenue, East  
23   Cleveland, Ohio 44114-2600  
24   (216) 622-3600

21       For the Defendant:               Pro Se

22       Official Court Reporter:       Heidi Blueskye Geizer, RDR, CRR  
23   U.S. District Court - Room 539  
24   201 Superior Avenue  
25   Cleveland, Ohio 44114-1201  
   (216) 861-3005

25       Proceedings recorded by mechanical stenography; transcript  
         produced by computer-aided transcription.

Davies - Direct

1 MORNING SESSION, MONDAY, APRIL 1, 2002, 9:13 A.M.

2 (Jury in at 9:13 a.m.)

3 THE COURT: Good morning. Welcome.

4 MR. TRAFICANT: Are you guys going to turn  
5 that screen on for me?

6 THE COURT: Good morning. Raise your right  
7 hand, please.

8 (The Witness is Sworn)

9 DIRECT EXAMINATION OF MELINDA MINCHER DAVIES

10 BY MR. TRAFICANT:

11 Q. Good morning, Mindy.

12 A. Good morning.

13 Q. Did I have occasion to serve you with a subpoena some  
14 time ago?

15 A. Yes, sir, you did.

16 MR. TRAFICANT: Gentlemen, Defendant EX P-1,  
17 it was given to you this morning. A copy was given to the  
18 Court.

19 THE COURT: Very well.

20 Q. Would you identify this as being your submission?

21 A. Yes, sir, this is one of the documents that I turned  
22 over pursuant to the subpoena.

23 Q. Thank you. I'm going to utilize the screen and ask  
24 you to identify these.

25 Can you hear me?

Davies - Direct

- 1 A. Yes.
- 2 Q. This is all one packet that has been identified as
- 3 Defense Exhibit EX P-1. But would you -- bless you. Can
- 4 you see that?
- 5 A. Yes, I can.
- 6 Q. And what is that?
- 7 A. That's a check that is drawn on the Home Savings
- 8 account of R. Allen Sinclair. It's his business account,
- 9 and it is payable to Allen Sinclair.
- 10 Q. And what is the amount of that check?
- 11 A. \$1,500 even.
- 12 Q. And what is the number of that check?
- 13 A. It's check number 3175. Excuse me -- 9175.
- 14 Q. And does that in fact depict that you negotiated that
- 15 check at Home Savings & Loan?
- 16 A. Yes, sir.
- 17 Q. Can you identify this check?
- 18 A. This is check number 9181, drawn on the account of R.
- 19 Allen Sinclair, payable to Allen Sinclair.
- 20 Q. And what is the amount?
- 21 A. It appears to be \$2,000. The amount of the check is
- 22 \$2,500.
- 23 Q. Did you negotiate this check at your bank?
- 24 A. Yes, sir.
- 25 Q. What is that check number?

Davies - Direct

- 1       A.     9219.
- 2       Q.     And who made that check?
- 3       A.     The check is drawn on the account of R. Allen
- 4       Sinclair, payable to Allen Sinclair.
- 5       Q.     And for what amount?
- 6       A.     \$1,000 even.
- 7       Q.     Did you negotiate that?
- 8       A.     Yes, sir.
- 9       Q.     Does that also carry a signature with it, for deposit
- 10      only?
- 11      A.     Yes. It's endorsed, and it carries the restrictive
- 12      endorsement for deposit only.
- 13      Q.     So it is both stamped and signed; is that correct?
- 14      A.     Correct.
- 15      Q.     Can you identify the number of this check?
- 16      A.     This is check number 9251.
- 17      Q.     And who wrote that check?
- 18      A.     It is also from the account of R. Allen Sinclair,
- 19      payable to Allen Sinclair.
- 20      Q.     And what was the negotiated amount of that check?
- 21      A.     \$1,500.
- 22      Q.     Was this negotiated at your bank?
- 23      A.     Yes. It was endorsed and with a restrictive
- 24      endorsement for deposit only.
- 25             THE COURT: Congressman, I just checked back

Davies - Direct

1       because I didn't recall your putting the full name of the  
2       witness on the record. And I know she's appeared before,  
3       but so that your record is complete --

4       Q.     Would you please identify yourself and spell your  
5       last name for the record.

6       A.     My name is Melinda Mincher Davies, D A V I E S.

7       Q.     How many times have you testified in this trial?

8       A.     This would be the fourth time that I've been on the  
9       witness stand.

10      Q.     How many times have you been subpoenaed by the  
11      government?

12      A.     I was subpoenaed by the government once. I appeared  
13      as a witness. The testimony began late on a Thursday and  
14      continued Friday morning.

15      Q.     How many times did you testify on behalf of the  
16      government? How many days?

17      A.     Two days.

18      Q.     Would you identify this check here number?

19      A.     Check number 9258.

20      Q.     And what account is it drawn on?

21      A.     It's from R. Allen Sinclair, and it's payable to  
22      Allen Sinclair.

23      Q.     And what is the amount of this check?

24      A.     \$1,000 even.

25      Q.     And how was this -- was this negotiated at your bank?

Davies - Direct

- 1 A. Yes. It was endorsed and with the restrictive  
2 endorsement for deposit only and signed by R. Allen  
3 Sinclair.
- 4 Q. Do you know if that's Mr. Sinclair's signature?
- 5 A. It does match the signature on the records of the  
6 bank.
- 7 Q. Would you identify the check number?
- 8 A. Check number 9314.
- 9 Q. And what is the amount of that check?
- 10 A. \$1,000 even.
- 11 Q. And who wrote that check?
- 12 A. R. Allen Sinclair.
- 13 Q. To?
- 14 A. Payable to Allen Sinclair.
- 15 Q. Was this negotiated at your bank?
- 16 A. Yes, it was deposited into an account, and it is  
17 endorsed by R. Allen Sinclair.
- 18 Q. Is that his writing?
- 19 A. It appears to be his writing, yes, sir.
- 20 Q. And what number is this check?
- 21 A. Check number 9316.
- 22 Q. And who wrote that check?
- 23 A. It is from the R. Allen Sinclair, payable to R. Allen  
24 Sinclair.
- 25 Q. What is the amount?

Davies - Direct

1 A. \$4,000 even.

2 Q. Was this negotiated at your bank?

3 A. Yes, sir. It was deposited into an account, and  
4 there is an endorsement for deposit only.

5 Q. Is that his signature?

6 A. Yes, it appears to be his signature.

7 Q. What is the number of this check?

8 A. 9303.

9 Q. And who wrote that check?

10 A. It's from R. Allen Sinclair, and it is payable to  
11 Allen Sinclair.

12 Q. What do those numbers next to Allen Sinclair signify?

13 A. That would be our bank's reference that a teller  
14 would put on there before they negotiated it to insure that  
15 the customer did have an account with us.

16 Q. And what was the amount of this check?

17 A. \$1,000 even.

18 Q. Was that negotiated at your bank?

19 A. Yes, sir, it was.

20 Q. And does it carry a signature?

21 A. It does. R. Allen Sinclair, and with a restrictive  
22 endorsement, for deposit only.

23 MR. TRAFICANT: No further questions.

24 THE COURT: Thank you.

25

- - - - -

Davies - Cross

1 CROSS-EXAMINATION OF MELINDA MINCHER DAVIES

2 BY MR. MORFORD:

3 Q. I'd like to ask you a couple things that Congressman  
4 Traficant did not ask you. You don't have the checks in  
5 front of you, I take it?

6 A. No, sir, I don't.

7 Q. I'll put them up here then. Maybe that will make it  
8 easier. Let's with the first check he showed you, which is  
9 the check that you said, check number 9175. Is that  
10 correct?

11 A. That's correct.

12 Q. And he didn't ask you the date on that check, but I'm  
13 going to go ahead and do that. What is the date?

14 A. The date is 2/22, year 2000.

15 Q. Okay. Now, there's a number that is written on each  
16 of these checks that you just testified to. Do you see  
17 that number there, 020361036?

18 A. Yes, sir.

19 Q. And on I believe all the rest of the checks --  
20 showing you now check number 09181, the date on that is  
21 what? February 29th, 2000?

22 A. That is correct.

23 Q. In the amount of \$2500?

24 A. Correct.

25 Q. Then there is a D before that same number,



Davies - Cross

1 D020361036. Do you see that?

2 A. Yes, I do.

3 Q. Isn't it true that that's the notation that shows  
4 that each of these checks was deposited into that account?

5 A. That's correct.

6 Q. So none of these checks were cashed for cash,  
7 correct?

8 A. That's correct.

9 Q. And what we have here then is Allen Sinclair writing  
10 checks from his business account, his lawyer account, to  
11 his personal account, correct?

12 A. That's correct.

13 Q. And depositing them into his personal account,  
14 correct?

15 A. That's correct.

16 Q. And that's a very normal, standard thing for lawyers  
17 to do, correct?

18 A. That's correct.

19 Q. In fact, that's generally how they draw their law  
20 income, correct?

21 A. That's correct.

22 Q. And so there's nothing unusual about this at all?

23 A. Not in my opinion at this point.

24 Q. Okay. So the first check that you testified to in  
25 the amount of \$1500 was on February 22, correct?

Davies - Cross

1 A. Correct.

2 Q. And then the next check, check 9181, in the amount of  
3 \$2500 was on February 29th, 2000?

4 A. Correct.

5 Q. Check 09219, March 8, 2000, in the amount of \$1,000?

6 A. Correct.

7 Q. March 15th, 2000, in the amount of 1500?

8 A. Correct.

9 Q. March 21st, 2000, in the amount of 1,000?

10 A. That's correct.

11 Q. April 3, 2000, in the amount of 1,000?

12 A. That's correct.

13 Q. April 11, 2000, in the amount of \$1,000?

14 A. Correct.

15 Q. And April 13, 2000, in the amount of \$4,000, correct?

16 A. That's correct.

17 Q. And so what we're seeing here is every week or so a  
18 draw that Allen Sinclair is taking from his business law  
19 account and depositing into his personal account?

20 A. That's correct.

21 Q. And nothing more?

22 A. Nothing more.

23 MR. MORFORD: Just one moment. Nothing  
24 further.

25

- - - - -

## Davies - Redirect

1 REDIRECT EXAMINATION OF MELINDA DAVIES

2 BY MR. TRAFICANT:

3 Q. You just heard the cross by the prosecutor, and he  
4 talked to you about these numbers of checks. These checks  
5 total two months; is that correct?

6 A. Yes.

7 Q. And do you have a total figure for those two months?

8 A. I believe the amount was \$13,500.

9 MR. TRAFICANT: No further questions.

10 MR. MORFORD: No questions, Your Honor.

11 THE COURT: Thank you. You're excused.

12 (Witness excused.)

13 THE COURT: Ladies and Gentlemen, I neglected  
14 to appraise you of the fact that our -- at least one of our  
15 court reporters is new to us.

16 We have a rotation system that occurs in the court,  
17 and as you know, today is the 1st of April. Anyway, in  
18 this case I want to introduce you to Bruce Matthews, whom I  
19 don't think you've met yet, and he's working with Heidi  
20 Geizer who was introduced to you, although you're seeing  
21 her from the back. She's been here in and out relieving  
22 our other two reporters, but these will be our reporters as  
23 we go forward in this month.

24 Thank you.

25 Sir, if you will come around through this gate,

Antonoff - Direct

1 please. Then come back over this way, weave your way  
2 through and come up onto the witness stand, please.

3 (The Witness is Sworn)

4 THE COURT: Have a seat. It's a big room.  
5 There's a microphone there. You can take the microphone  
6 actually out of the stand, you can pick up the whole thing,  
7 or just talk.

8 THE WITNESS: That's fine like this.

9 THE COURT: Okay.

10 DIRECT EXAMINATION OF MICHAEL ANTONOFF

11 BY MR. TRAFICANT:

12 Q. Would you state your full name for the record and  
13 spell your last name.

14 A. It's Michael Antonoff, A N T O N O F F.

15 Q. And what is your current residence?

16 A. 74016 Westview Drive, Boardman, Ohio, 44512.

17 Q. And what is your current occupation?

18 A. I am a licensed private investigator, state of Ohio.

19 Q. Are you certified in the state of Ohio for said  
20 activities?

21 A. Yes. I'm licensed.

22 Q. Certified and licensed?

23 A. Yes.

24 Q. Did we have occasion to meet?

25 A. Yes.

Antonoff - Direct

- 1 Q. When did we meet?
- 2 A. Saturday, March 30th at 10:30 a.m.
- 3 Q. Where did we meet?
- 4 A. At your office in Canfield, Ohio. Raccoon Road and
- 5 Route 224.
- 6 Q. At whose request did we meet?
- 7 A. Yours.
- 8 Q. Did you perform any particular function for me?
- 9 A. Yes, I did.
- 10 Q. And what function do you serve?
- 11 A. I was serving legal documents, process serving.
- 12 Q. What legal documents do you serve for me?
- 13 A. Subpoenas.
- 14 Q. Did we have a conversation Saturday?
- 15 A. Yes, we did.
- 16 Q. As a result of that conversation, what, if anything,
- 17 was your impression?
- 18 A. That I was employed by you to serve subpoenas.
- 19 Q. Was there any particular event that concerned you?
- 20 A. Yes. In reference to the subpoenas?
- 21 Q. Yes.
- 22 A. Yes.
- 23 Q. Would you explain that?
- 24 A. It was Thursday, I believe it was the 21st of March.
- 25 I left my residence at Westview Drive to pick up my

Antonoff - Direct

1 daughter, Cindy Antonoff, at Stadium Drive School, which is  
2 a block away from my house --

3 MR. MORFORD: Your Honor, I'm going to object  
4 to this. It's been raised with the Court prior to this  
5 today, and I'd like it to be taken up outside the presence  
6 of the jury before we start getting into this.

7 THE COURT: As to anything that happened  
8 prior to the 30th when he was employed, we will have  
9 to -- there was a prior situation that was brought to the  
10 attention of the Court, and we will have to deal with this  
11 during break out of the hearing of the jury. We can do it,  
12 I would expect, at this morning's break.

13 MR. TRAFICANT: I object.

14 THE COURT: I understand you object, but  
15 nonetheless, that's the proper way to do it, and that's  
16 what we will do.

17 MR. TRAFICANT: Fine. I still have some  
18 other questions.

19 Q. When were you first employed by me?

20 A. It was February of this year, 2002.

21 Q. Are you afraid or concerned for your welfare?

22 MR. MORFORD: Objection.

23 THE COURT: Sustained.

24 Q. As a result of our conversation, was it your  
25 impression that you were concerned for your welfare?

Robertson - Direct

1 MR. MORFORD: Objection.

2 THE COURT: This is exactly what we need to  
3 be talking about somewhere else since it's been raised with  
4 the Court before, and we gave you an opportunity to handle  
5 it outside the hearing of the jury.

6 Do not continue to inquire about those events. If  
7 you have something completely unrelated to whatever those  
8 events were, we'll deal with what's unrelated to them.

9 Congressman, you understand, we've done this many  
10 times before.

11 Q. Were you ever impeded in serving a subpoena?

12 MR. MORFORD: Objection.

13 THE COURT: The objection is sustained.  
14 You'll have to call this witness out of the hearing of the  
15 jury. You can proceed with another witness.

16 You can step down.

17 Who is your next witness, Congressman?

18 MR. TRAFICANT: Michael Robertson.

19 THE COURT: Thank you.

20 (The Witness is Sworn)

21 DIRECT EXAMINATION OF MICHAEL ROBERTSON

22 BY MR. TRAFICANT:

23 Q. Please state your full name for the jury, and spell  
24 your last name.

25 A. Michael L. Robertson, R O B E R T S O N.

Robertson - Direct

1 Q. And where do you currently reside?

2 A. 2211 Hunting Valley Street, North Canton, Ohio,  
3 44720.

4 Q. And what is your current occupation?

5 A. I'm a licensed private investigator.

6 Q. For how many years have you been a licensed private  
7 investigator?

8 A. Going on 14.

9 Q. Are you certified as a licensed investigator?

10 A. Licensed by the state of Ohio.

11 Q. Do you have any previous history in investigation  
12 work?

13 A. Yes, sir, I do.

14 Q. And would you explain to the jury what that is?

15 A. I served as a Special Agent with the U.S. Secret  
16 Service Department of the Treasury for 17 years.

17 Q. How many years -- what years were those?

18 A. 1969 until 1987.

19 Q. As a Secret Service Agent, describe some of your  
20 duties.

21 A. The Secret Service has two areas of responsibility.  
22 The first, better known to the public, is the protection of  
23 the president, vice president, other family members,  
24 foreign heads of state, and heads the government,  
25 presidential candidates, and others as authorized by the



Robertson - Direct

1       president.

2               The second area of responsibility are criminal  
3       investigations, which include counterfeit currency  
4       violations, theft and forgery of government checks, and  
5       other instruments, threats against the president, credit  
6       card fraud, other types of fraud investigations, including  
7       electronic funds transfers, and misuse of any access  
8       device.

9       Q.     Did you hold a supervisory position with the Secret  
10      Service at any point?

11     A.     Yes, sir, I did.

12     Q.     And what was that?

13     A.     I was the resident agent in charge of the office in  
14      Canton, Ohio, which covered 11 counties under the Cleveland  
15      field office. And I also served as the fraud squad leader  
16      for the Cleveland field office for approximately three  
17      years.

18     Q.     Did you ever work with any of the prosecutors seated  
19      here at the table? Could you look at the gentlemen?

20     A.     Not these prosecutors, no, sir.

21     Q.     How did we come to meet?

22     A.     I have a attorney in Youngstown with whom I have  
23      worked in the past, and the conversation -- I was talking  
24      to him probably the middle of February.

25     Q.     And what was the cause of that conversation?

Robertson - Direct

1       A.     It was -- I was talking to him about another case,  
2       and just as a social comment, I made a comment about  
3       the -- this particular case, and an interest I had in the  
4       case.

5       Q.     At some particular point did you develop an interest  
6       in the matters of this case?

7       A.     During the first conversation in the middle of  
8       February, or thereabouts, it was more just a matter of  
9       interest, and at that point the attorney told me that he  
10      knew you, and that was pretty much the end of it.

11            The next conversation --

12      Q.     Did that, in fact, change at some particular point  
13      with something more direct?

14      A.     Well, specifically then I talked to him again on  
15      February 22nd about another matter, and I made a comment to  
16      him about this case, and he stated that you were going to  
17      be in your office tomorrow, and if I had an interest in  
18      meeting you, that it could be arranged.

19      Q.     Did we meet? Did we meet?

20      A.     Yes, sir, we did.

21      Q.     And where did we meet?

22      A.     We met at your Canfield office on February 23rd.

23      Q.     What was the nature of the concerns that you brought  
24      forward?

25      A.     Based on what I knew about the case, I was interested

Robertson - Direct

1 in the pursuit of documentary-type evidence, direct  
2 evidence, corroborative evidence in the case, that what I  
3 had learned about the case, it was mainly based on  
4 testimony.

5 Q. Did you make any requests of me?

6 A. Not on that day.

7 Q. Did we happen to reschedule and have another meeting?

8 A. Yes, sir, we did.

9 Q. Were there any requests made of me at the further  
10 meeting?

11 A. Yes, that if you had an interest in me looking at the  
12 case, that I would be glad to do so, and I felt that based  
13 on what I had learned, that we were going to need more  
14 information, more documents.

15 Q. And what, if anything, then did you suggest that I  
16 do?

17 A. I suggested that additional documents be obtained,  
18 mainly bank documents.

19 Q. And how was I to obtain those records?

20 A. Via subpoena.

21 Q. Do you know if that goal was attained?

22 A. The documents were obtained and provided to me.

23 Q. Did you receive any additional information?

24 A. Obviously court documents, various court documents in  
25 addition to the bank documents.

Robertson - Direct

1 Q. Were you asked to review a particular account?

2 A. Yes, sir, I was.

3 Q. And what account was that?

4 A. It was a bank account in the name of Allen Sinclair.  
5 That was the initial one.

6 Q. In the records you received from the Court -- that is  
7 Exhibit S-22. Would you look at that?

8 A. Yes, sir.

9 Q. What is that document?

10 A. This is a copy of a district office lease agreement  
11 marked Defendant's Exhibit S-22 with the name of KAS  
12 Enterprises, 11 Overhill Road -- excuse me, 11 Overhill  
13 Road, Youngstown, Ohio, 44512, with a lessor being James A.  
14 Traficant, Jr. The document is dated at the bottom 11  
15 December 1998, and bears the signature of a Kimberly A.  
16 Sinclair and the signature of James R. Traficant, Jr.

17 MR. MORFORD: Your Honor, for clarity of the  
18 record, I believe that's Government Exhibit 1-23, and I  
19 believe it says so up in the corner. It is going to make  
20 the record confused if it's given a new number.

21 MR. TRAFICANT: Fine. 1-23 is fine with me.

22 THE COURT: Congressman, I do need to see  
23 these before you give them to the witness.

24 MR. TRAFICANT: Fine.

25 THE COURT: Did you pick up the government

Robertson - Direct

1 number? Thank you.

2 MR. TRAFICANT: What was that government  
3 number?

4 MR. MORFORD: 1-23, Your Honor, and I believe  
5 it's on there, Congressman, up in the left-hand corner.

6 Q. Is there a termination clause in there?

7 A. Item number 6 is a termination with 30 days notice.

8 MR. MORFORD: I'm sorry, I couldn't hear any  
9 of that.

10 THE COURT: You have to speak up, sir.

11 A. I'm sorry.

12 Item number 6 contains a clause for termination with  
13 30 days notice given.

14 Q. Is there an amount of rent shown?

15 A. There is a monthly rent of \$656, no cents.

16 Q. Is there any aspect of the lease that pertains to  
17 utilities?

18 A. Unless I'm overlooking it, I don't see it. I would  
19 like to add also though that item number 3, that the lease  
20 may be terminated by either party giving 30 days notice,  
21 not item number 6.

22 Q. Item number 3. And is that the document that you are  
23 referring to, sir?

24 A. Yes, sir.

25 Q. Now I will show you what is known as Defense Exhibit

Robertson - Direct

1 HSL-1-DA. It is corporate resolutions. Would you  
2 identify --

3 THE COURT: Congressman, I need to see the  
4 lease one more time, too, if I may.

5 MR. TRAFICANT: Very glad to. May I show  
6 this to the witness?

7 THE COURT: Let me just go back, because Mr.  
8 Morford, you said this lease said up in the upper left-hand  
9 corner its government number. In fact, the copy the  
10 Congressman had did not say that. However, the copies in  
11 the exhibit books do say it.

12 MR. MORFORD: He does have a copy of this.

13 THE COURT: So there is no question this is  
14 Government's Exhibit 123.

15 MR. TRAFICANT: Yes, that's fine.

16 Q. Would you identify what that is, sir?

17 A. This is a copy of a corporate resolution designating  
18 depositor and officers authorized to sign for corporation,  
19 bearing Defense Exhibit HSL-10-A.

20 Q. I'm going to place this up on the screen. What  
21 property is being leased here?

22 A. 11 Overhill Road, Youngstown, Ohio.

23 Q. And the amount is?

24 A. \$656, no cents, per month.

25 Q. And there is a notice given for termination?

Robertson - Direct

1 A. Yes, sir. Item number 3.

2 THE COURT: And item number 6, as he  
3 testified.

4 MR. TRAFICANT: Thank you.

5 Q. This here is the document you just referred to?

6 A. Yes, sir.

7 Q. And who are the board of directors?

8 A. KAS Enterprises.

9 Q. And who has signed for KAS Enterprises?

10 A. Under the printed word -- I'm sorry. Above the  
11 printed word "President," R. Allen Sinclair, and above the  
12 printed word "Secretary," Kimberly A. Sinclair.

13 Q. Did you do any research on the KAS account?

14 A. Yes, sir, I did.

15 Q. What is the KAS account?

16 A. To do with the bank, sir?

17 Q. Yes. What is it as far as it is -- what type of an  
18 account is it?

19 A. The account at Home Savings is a joint account set up  
20 under the name KAS Enterprises, joint being both R. Allen  
21 and Kim Sinclair.

22 Q. And looking at paragraph 2, if you would, what, if  
23 anything, does the joint account mean?

24 A. A joint account, depending on how it's specified,  
25 either as an "and/or," "both," or an "or" account, if it's

Robertson - Direct

1 an "or" account, as this one is, then either party can  
2 deposit and withdraw funds without the permission of the  
3 other party, the other signee.

4 Q. Was it signed and dated?

5 A. It's dated 15 December.

6 Q. 1998?

7 A. Yes, sir.

8 Q. Do you know if that was the only KAS account that was  
9 opened?

10 A. It was the same account, I believe, but there  
11 are -- there was another corporate resolution executed, I  
12 believe in the same account number.

13 Q. Did that raise your interest?

14 A. May we see the exhibit, sir?

15 Q. I'm going to show you a different set of exhibits.  
16 Defense Exhibit S-903, Defense Exhibit S-904.

17 MR. MORFORD: These are things you gave us  
18 today, sir?

19 MR. TRAFICANT: Yes.

20 THE COURT: Thank you.

21 Q. Would you please take a look at these two documents  
22 before I put them on the board?

23 A. Yes, sir. Exhibit marked Defendant's Exhibit S-903  
24 is a printout on an on-line service from the Ohio Secretary  
25 of State containing documents regarding filings for KAS



Robertson - Direct

1 Enterprises with the Ohio Secretary of State.

2 Q. And who is registered as a name for that trademark  
3 registration?

4 A. The name appearing on the second page of the package,  
5 the agent name is Kimberly A.

6 Q. And on the third page?

7 A. On the third page is a business filing information;  
8 the business name is KAS; the filing type is trade  
9 name/original; filing date, October 22, 1998.

10 Q. And the next page?

11 A. The fourth page is prior business name information,  
12 and it reflects no ROW, R O W, return, meaning that  
13 apparently there was no prior business name filed.

14 Q. The next page?

15 A. The next page is the trade name registration. That  
16 was filed, and I don't happen to see the form number on  
17 this. It's a state form. It has the state seal of Ohio in  
18 the upper left corner. It is called trade name  
19 registration. Item number one, the exact trade name being  
20 registered is KAS Enterprises. Item number two is the  
21 registrant is an individual. That's the block that's  
22 marked.

23 The registrant designated in item two is Kimberly A.  
24 Sinclair. That's in item 3. Then it gives the address,  
25 and the form is dated at the bottom 10-1-1998, signed

Robertson - Direct

1 bearing the signature of Kimberly A. Sinclair.

2 Q. And what is the next page?

3 A. The next page is a envelope that's evidently been  
4 preserved by the recipient, being the state of Ohio, in  
5 which the form was submitted, bearing return address logo  
6 R. Allen Sinclair & Associates, Attorneys at Law, 11  
7 Overhill Road, Youngstown, Ohio, 44512. Part of the  
8 envelope is missing. It's postmarked 19 October 1998 from  
9 Youngstown, addressed to the Secretary of State, 30 East  
10 Broad Street, Columbus, Ohio.

11 Q. And the next page?

12 A. The last page is the certificate that is issued by  
13 the state of Ohio being returned to the designee. In this  
14 case, the state of Ohio has entered that the form was  
15 returned to R. Allen Sinclair & Associates, 11 Overhill  
16 Road, Youngstown, Ohio, 44512-0000. The form is a  
17 certificate titled the State of Ohio certificate, Secretary  
18 of State Bob Taft, bearing a number for the trademark.

19 And the applicant listed here is Kimberly A.  
20 Sinclair.

21 Q. Are you familiar with this document?

22 A. Yes, sir.

23 Q. I'd like to put that on the screen for you.

24 MR. MORFORD: Which document is that?

25 MR. TRAFICANT: This would be 904.

Robertson - Direct

1 Q. Would you describe what kind of account this is?

2 A. Yes, sir. This is again generated on an on-line  
3 service from the Ohio Secretary of State, business service  
4 queries. This is a business filing information for  
5 Sinclair Vending Company, and the filing type is a trade  
6 name/original filing.

7 Q. And what was the date of that?

8 A. It was filed May 20, 1998.

9 Q. On page 2, what is that?

10 A. This is the registration in the name of Sinclair  
11 Vending Company. This would be the form submitted to the  
12 state.

13 Q. And who, in fact, signed that on behalf of the  
14 vending company?

15 A. On May 4, 1998, it was signed R. Allen Sinclair.

16 Q. Are you familiar with vending businesses, sir, in  
17 your past activity as a criminal investigator with the  
18 Secret Service?

19 A. Yes, sir.

20 Q. Do they take checks?

21 A. No, sir.

22 Q. Do you know if this was a cigarette machine, sir?

23 A. There was no filing found for a cigarette vendor's  
24 license under the name of Sinclair Vending.

25 Q. And this document would also be a certificate. Would

Robertson - Direct

1       you identify this?

2       A.     Yes, sir.   Certificate issued by Secretary of State  
3       Bob Taft, bearing certificate number 1016781.

4       Q.     And who is the applicant and what is the address on  
5       the applicant?

6       A.     R. Allen Sinclair, 3926 Helena Avenue, Youngstown,  
7       Ohio, 44512.

8       Q.     And what is this, sir?

9       A.     This was part of the initial query which is on the  
10      first page and brought up as a supplement, showing that the  
11      vending trade name was cancelled.

12      Q.     What was the date that it was cancelled?

13      A.     It's dated 6-1-2001.

14      Q.     And who signed it?

15      A.     It's signed R. Allen Sinclair.

16      Q.     And is this, in fact, that certificate?

17      A.     That, sir, is a verification response from the state  
18      of Ohio, Secretary of State, cancelling the trade name  
19      registration.

20      Q.     Did this vending business pique your interest?

21      A.     I beg your pardon?

22      Q.     Did this vending business attract your interest?

23      A.     Once I had the bank documents, particularly the  
24      deposit tickets or deposit records available, yes, sir, it  
25      did.

Robertson - Direct

1 MR. TRAFICANT: I think this is a joint  
2 exhibit. You can give me the number? This is the first  
3 corporate resolution. Do we have a joint number on it?

4 This was Defense Exhibit HSL-10-B.

5 THE COURT: Is this also a Government's  
6 Exhibit?

7 MR. MORFORD: I don't think so, Your Honor.

8 MR. TRAFICANT: I don't think so.

9 THE COURT: Thank you.

10 Q. Would you just take a cursory look at the document,  
11 and then I want to put it on the board.

12 A. Yes, sir. It's marked Defendant's Exhibit HSL-10-B.  
13 It's another corporate resolution designating depositor and  
14 officers authorized to sign for corporation.

15 Q. Does this in fact designate that as what enterprise?

16 A. KAS Enterprises, Incorporated.

17 Q. And who had signed that?

18 A. This is signed, as president, Raymond A. Sinclair.

19 Q. Do any other names appear on this document, on this  
20 side of it?

21 A. I don't believe so, sir.

22 Q. What is the date?

23 A. This form is -- the second page is dated 30 November  
24 1998, bearing the signature Raymond A. Sinclair.

25 Q. When you blow up the title now of this --

Robertson - Direct

1 A. The title is secretary.

2 Q. Are there any other signatures on the document at  
3 all?

4 A. No, sir.

5 Q. What kind of account is this account?

6 A. The KAS Enterprises account is a joint account.

7 Q. Now, going back to Exhibit 10-A, which was a  
8 Government's Exhibit --

9 MR. MORFORD: No, I don't believe it was.

10 MR. TRAFICANT: I think it was 1-21. I  
11 failed to write it down.

12 Q. Was that -- what is that?

13 A. This is the corporate resolutions form again provided  
14 by Home Savings.

15 Q. What names does it now carry?

16 A. It carries President R. Allen Sinclair, signature,  
17 and Secretary Kimberly A. Sinclair, secretary.

18 Q. And what is the date of that?

19 A. 15 December 1998.

20 Q. So this became the final document registered with the  
21 state; is that correct, sir?

22 A. Registered with the bank.

23 Q. Registered with the bank.

24 A. Yes, sir.

25 Q. And it is a -- what kind of account is it?

Robertson - Direct

1 A. It's a joint account, individual bank account, not a  
2 corporation.

3 Q. At some point did you ask for any specific documents  
4 of investigatory matters?

5 A. The bank accounts on -- any and all Home Savings  
6 accounts involving R. Allen Sinclair or Kimberly Sinclair.

7 Q. Did you request any investigatory devices of the  
8 government?

9 A. Directly, sir?

10 Q. Yes.

11 A. No.

12 Q. Does the Secret Service memorialize their witness  
13 interviews?

14 A. Yes, sir.

15 Q. And how do they do so?

16 A. Depending on the case type, if there is no case open,  
17 it would be in the form of an office memorandum. If it's  
18 on an open case, it would be a memorandum of report.

19 Q. Do you know if the FBI maintains records of their  
20 witness interviews?

21 A. Yes, sir, they do.

22 Q. And what are those forms?

23 A. Those forms are called a 302 form.

24 Q. As a result of that, did you make any requests  
25 regarding 302s?

Robertson - Direct

1 A. I asked if there were any court documents in addition  
2 to the bank documents that might be of value for following  
3 up on the case.

4 MR. MORFORD: I'm sorry, any what kind of  
5 documents? I have trouble hearing.

6 THE COURT: He said any court documents.

7 THE WITNESS: Court documents.

8 MR. TRAFICANT: 302, 1-24. This is a 302,  
9 1-24, Your Honor.

10 THE COURT: Thank you.

11 Q. I want you to look at this document. First of all,  
12 identify what it is.

13 A. It's a form 302 titled at the top, Federal Bureau of  
14 Investigation.

15 Q. Looking through this form, is this  
16 investigation -- did you come across something that  
17 attracted your interest?

18 A. When I reviewed the form, from a investigative  
19 standpoint, I felt that there were three separate areas  
20 that were being covered in the interview.

21 Q. And what were those?

22 A. The first was an interest in finding out from  
23 Mr. Sinclair the reason for Mr. DiBlasio, who owned the  
24 building, and the sale of the building, to Mr. Sinclair.  
25 And then an interest on the part of the government to find



Robertson - Direct

1 out about the name in which the building was secured when  
2 Mr. Sinclair bought the building.

3 Q. What, if anything, did you conclude after looking at  
4 the ownership section of the building when it related to  
5 the queries into Mr. Sinclair?

6 A. I felt that the question was quite justified in the  
7 FBI trying to find out who was owning what at what time. I  
8 thought it was unusual that Mr. Sinclair refused or did not  
9 answer the question.

10 Q. After the query relative to the building, what was  
11 the next set of queries?

12 A. The next set of queries was something to do with  
13 Mr. Sinclair's income as a attorney and conversation about  
14 any kickbacks, at which time Mr. Sinclair stated that he  
15 did not kick back any part of his salary, and he had no  
16 interest in, quote, getting Traficant, end of quote.

17 Q. What was the date when this interview took place?

18 A. This took place on January 24, 2000, transcribed  
19 January 26, 2000.

20 THE COURT: Congressman, that needs an  
21 exhibit number. It has no exhibit number.

22 MR. TRAFICANT: Defense Exhibit S-27.

23 THE COURT: Thank you.

24 Q. Now, when you heard the term "get Traficant," what,  
25 if anything, did you proceed to as far as investigating

Robertson - Direct

1       this matter?

2       A.     Well, we all have our own ways of making comments, of  
3       phrasing responses, and he could have, you know, could have  
4       phrased it in different ways. I took it as being a fairly  
5       strong comment.

6                   MR. MORFORD:  Objection, Your Honor, as to  
7       how this is relevant or what he took has anything to do  
8       with this case.

9                   THE COURT:  The objection is sustained.

10                  MR. TRAFICANT:  Pardon?

11                  THE COURT:  The objection is sustained.

12       Q.     Did you do a -- Government's Exhibit 7- -- is that a  
13       1?  271?

14                  MR. MORFORD:  It is 1-27.1.

15       Q.     Do you have a pencil with you, sir?

16                  THE COURT:  Thank you.

17       A.     Yes, sir.

18       Q.     I am going to put this on the board, on the screen  
19       while you have a copy of it. Can you read whose exhibit it  
20       is?

21       A.     Government's Exhibit 1-27, either point or dash 1.

22       Q.     I'd like for you to direct yourself to the years '98  
23       through '99 on the document.

24       A.     Yes, sir.

25       Q.     Now, in moving across, can you see January 8, '98?

Robertson - Direct

- 1       A.     Yes, sir.
- 2       Q.     And what is next to it?
- 3       A.     The name of the bank, Bank One.
- 4       Q.     Is that what we're referring to (indicating)?
- 5       A.     Yes, sir.
- 6       Q.     Moving across, what are we now looking at?
- 7       A.     Account number.
- 8       Q.     Moving across, what are we now looking at?
- 9       A.     The amount of deposit, \$800.
- 10      Q.     The amount of deposit from whom?
- 11      A.     At the top of the paper it states, "James A.
- 12      Traficant cash deposits to personal accounts."
- 13      Q.     I would like for you to count the number of deposits
- 14      made from 800 down through 700.
- 15      A.     Sir, are we talking about from January 8th to the
- 16      bottom?
- 17      Q.     Yes, we are.
- 18      A.     There are 12 deposits.
- 19      Q.     There are how many items?
- 20      A.     There are 12 items.
- 21      Q.     I want you to divide that by the years in question,
- 22      those 12 deposits. First I'd like for you to total the
- 23      amount, starting with the 800.
- 24      A.     The 12 deposits total \$11,700.
- 25      Q.     \$11,700.

Robertson - Direct

1 A. Yes, sir.

2 Q. I want you to divide those 12 deposits by the  
3 document that's been presented to you.

4 A. Could you restate that, please?

5 Q. I wanted you to divide this \$11,700 by the number of  
6 months in which this document, these 11 -- these 12  
7 deposits represent.

8 A. Okay.

9 Q. How many months do they represent, sir?

10 A. 24.

11 Q. What is the average deposit made in the Traficant  
12 account in cash in the years 1998 and '9?

13 A. Not knowing how exactly you want it, sir, it's a  
14 little over \$480 a month, maybe 485.

15 Q. Approximately 485?

16 A. Yes, sir.

17 Q. Per month. Why did you ask to see that?

18 A. I'm sorry, sir?

19 Q. Why did you ask to see that document?

20 A. I didn't ask to see the specific document. I asked  
21 for any Government Exhibits or other, you know, documents  
22 that had been submitted to the Court that had to do with  
23 numbers and other things that might help with the paper  
24 trail.

25 MR. TRAFICANT: I think this is a Joint

Robertson - Direct

1 Exhibit, 1-9.

2 Q. Would you take a look at this, and I'll put it on the  
3 board.

4 A. Yes, sir. The top states, "Generation of cash from  
5 U.S. Treasury salary checks by Allen Sinclair." It has a  
6 Government's Exhibit sticker on it.

7 Q. And what does it show?

8 A. The column that you're centered on right now shows  
9 cash received, in most cases at the time of deposit, and I  
10 believe on two occasions a separate withdrawal slip for the  
11 same amount of \$2500 either on the same day or shortly  
12 after the check was deposited. These -- in all instances  
13 these were government treasury salary checks to  
14 Mr. Sinclair.

15 Q. And how did you know that they were government salary  
16 checks?

17 A. I saw the checks.

18 Q. How many accounts -- what account was that from,  
19 would you know?

20 A. The checks, sir -- the deposit?

21 Q. Yes. Do you know where that was deposited?

22 A. Can we see that? This account would be a joint, for  
23 lack of a better word, personal checking account for  
24 R. Allen Sinclair and Kimberly Sinclair.

25 Q. Either/or?

Robertson - Direct

1 A. Or.

2 Q. Without permission of either?

3 A. Yes, sir.

4 MR. TRAFICANT: This packet, I believe it was  
5 given to you this morning as Defendant's Exhibit HSL-1-E --

6 MR. MORFORD: You gave us a bunch of stuff  
7 this morning.

8 Q. Do you need some paper for notes?

9 A. No, sir.

10 Q. Included in this packet, would you just take a look  
11 at the first check, and then I will put them on the screen.

12 A. The first check is a U.S. Treasury check dated,  
13 computer dated 9-9-99, in the amount of \$330.12 made out to  
14 payee KAS Enterprises.

15 Q. Okay. Is that \$330.12?

16 A. Yes, sir.

17 Q. To you, in your experience as a investigator, what  
18 does that represent?

19 A. Well, in this case, there were -- there was one check  
20 issued based on the lease agreement which is in the amount  
21 of \$656 a month. And --

22 Q. This went to KAS in the amount of 330 --

23 A. And 12 cents. Any other checks not in that amount  
24 would be for utilities.

25 Q. And how was this deposited?

Robertson - Direct

- 1 A. Pay to the order of Home Savings for deposit only,  
2 KAS Enterprises.
- 3 Q. This is all a part of HSL-1-E. I'll put the second  
4 check up now.
- 5 What is the date of this check?
- 6 A. The check is dated September 20, 1999.
- 7 Q. What was it drawn on?
- 8 A. The U.S. Treasury.
- 9 Q. What was the amount?
- 10 A. \$656 and no cents.
- 11 Q. And it was --
- 12 A. It was pay to the order of Home Savings, for deposit  
13 only, KAS Enterprises.
- 14 Q. That had -- that \$656, what did that represent?
- 15 A. That represented one month's rent payment to KAS.
- 16 Q. As verified by what?
- 17 A. As verified by the amount.
- 18 Q. What is the date of this check?
- 19 A. This check is dated 10-18-99.
- 20 Q. What is it drawn on?
- 21 A. U.S. Treasury Department.
- 22 Q. And what is the amount?
- 23 A. \$303.48, made payable to KAS.
- 24 Q. And it carries the same depository?
- 25 A. Yes, sir, it does.

Robertson - Direct

- 1 Q. What is the date of this check?
- 2 A. 10-20-99.
- 3 Q. And what was it drawn on?
- 4 A. The United States Treasury.
- 5 Q. In what amount?
- 6 A. \$656 even.
- 7 Q. Is there a difference between these and the lesser
- 8 amount checks?
- 9 A. I'm not -- I don't understand.
- 10 Q. You said these are even. Were any of the other
- 11 lesser amount checks even?
- 12 A. So far, no.
- 13 Q. What is the date of this check?
- 14 A. November 15, '99.
- 15 Q. And what was it drawn on?
- 16 A. United States Treasury.
- 17 Q. What was the amount of the check?
- 18 A. \$134.66, same stamp, for deposit stamp.
- 19 Q. In your experience as a investigator, what did you
- 20 conclude that these lesser amounted checks were for?
- 21 A. That they would be for a proportional share of
- 22 utilities for the office space rented by the government.
- 23 Q. Now, what is this check?
- 24 A. November 22, '99.
- 25 Q. And what was it drawn on?



Robertson - Direct

- 1 A. United States Treasury.
- 2 Q. To?
- 3 A. To KAS Enterprises, in the amount of \$656, bearing
- 4 the KAS deposit stamp.
- 5 Q. What is the date of this check?
- 6 A. December 20, 1999.
- 7 Q. And what was it drawn on?
- 8 A. United States Treasury.
- 9 Q. What was the amount?
- 10 A. \$656, no cents.
- 11 Q. And what does it signify?
- 12 A. It signifies a rent payment, bearing the same stamp,
- 13 for deposit only.
- 14 Q. What's the date of this check?
- 15 A. January 21, 2000.
- 16 Q. What was it drawn on?
- 17 A. United States Treasury.
- 18 Q. How much?
- 19 A. \$656 and no cents, again, bearing the same deposit
- 20 stamp, KAS.
- 21 Q. What is the date of this check?
- 22 A. February 8, 2000.
- 23 Q. And what is the amount?
- 24 A. \$103.72.
- 25 Q. And what was it drawn on?

Robertson - Direct

- 1 A. The United States Treasury, payable to KAS.
- 2 Q. How was it negotiated? How was it negotiated?
- 3 A. It was deposited into the KAS account.
- 4 Q. What is the date of this check?
- 5 A. February 18, 2000.
- 6 Q. What was the amount?
- 7 A. \$656 even.
- 8 Q. Drawn on?
- 9 A. United States Treasury, made payable to KAS
- 10 Enterprises, bearing the KAS deposit stamp.
- 11 Q. What is the date of this check?
- 12 A. March 20, 2000.
- 13 Q. And what's the amount?
- 14 A. \$656 and no cents.
- 15 Q. And how is it negotiated?
- 16 A. Deposit only for KAS Enterprises.
- 17 Q. What was the date of this check?
- 18 A. March 16, 2000.
- 19 Q. What was it drawn on?
- 20 A. United States Treasury.
- 21 Q. What amount?
- 22 A. \$112.52.
- 23 Q. To?
- 24 A. KAS Enterprises, bearing the KAS deposit stamp.
- 25 Q. What is the date?

Robertson - Direct

- 1 A. April 20, 2000.
- 2 Q. Drawn from?
- 3 A. Drawn from U.S. Treasury in the amount of \$656 even,  
4 payable to KAS Enterprises, and bearing the KAS stamp.
- 5 Q. The check?
- 6 A. The check is dated May 5, 2000.
- 7 Q. Drawn on?
- 8 A. In the amount of \$164.48.
- 9 Q. And it was drawn on what?
- 10 A. Drawn on the United States Treasury, payable to KAS  
11 Enterprises.
- 12 Q. What is the difference between the lesser numbered  
13 dollared amounts and the \$656 amount?
- 14 A. The lesser amounts would be for proportional share of  
15 utilities at that location.
- 16 Q. Is there any difference between the amounts?
- 17 A. There are differences between the amounts of the  
18 utilities.
- 19 Q. How many years have you paid utilities yourself, sir?
- 20 A. Personally?
- 21 Q. Yes.
- 22 A. Over 40.
- 23 Q. How many times have you paid a utility bill that was  
24 zero-zero without no pennies on it?
- 25 A. I probably have, but I don't recall. I probably

Robertson - Direct

1 have.

2 Q. This one here is very hard to see on the screen. I  
3 think you might be able to identify it. You have it in the  
4 packet. What does it appear to be?

5 A. A poor quality copy of a U.S. Treasury check.

6 Q. In the amount of?

7 A. In the amount of \$656, no cents.

8 MR. MORFORD: Can we get a date on that?

9 MR. TRAFICANT: I got it from you. I think  
10 that's --

11 MR. MORFORD: You got what from us?

12 MR. TRAFICANT: 132 ninety -- it must be 90.  
13 I can't see the date.

14 Q. In looking at this now --

15 THE COURT: What was that poor quality U.S.  
16 Treasury check, what exhibit number?

17 MR. TRAFICANT: It's all a part of Defense  
18 Exhibit (pause) I'm trying to find it. I think I stated it  
19 for the record. Perhaps we could go back in the record. I  
20 do not have the copy here.

21 THE COURT: I'll go back. Is it part of  
22 HSC-1-E? I'm sorry, HSL-1-E? Is it part of that,  
23 Congressman?

24 MR. TRAFICANT: I think it's HSL-1-E, dash 1  
25 E, Your Honor.

Robertson - Direct

1 THE COURT: Let me just go back and see if  
2 it's on the record.

3 Q. At some particular point did you ask for any other  
4 court documents relative to this matter?

5 THE COURT: Wait just a minute. That last  
6 paper, you never established what date was on that check.

7 MR. TRAFICANT: I can't even make it out.

8 THE COURT: You can't read it?

9 MR. TRAFICANT: I would strike it. I can't  
10 read it.

11 THE COURT: All right. Thank you. Go ahead.

12 Q. After having reviewed this account and the 302, what,  
13 if anything, did you request of the court documents?

14 A. I'm not sure of the exact sequence. If I didn't  
15 already have it, I would have wanted the banking  
16 information on the KAS account and copies of the checks.  
17 I'm not really sure which came first.

18 Q. Did you ever seek the testimony of the witness?

19 A. Yes.

20 Q. In what form and what as a result of that occurred,  
21 that request?

22 A. I was provided transcripts of grand jury testimony,  
23 direct testimony and cross-examination testimony of Allen  
24 Sinclair.

25 Q. Did you come to learn of any unusual expenditures

Robertson - Direct

1 during that examination, both direct or cross?

2 A. Are we -- sir, are we talking about Mr. Sinclair  
3 himself or about KAS?

4 Q. Now talking about purchases.

5 MR. MORFORD: Your Honor, I'm going to object  
6 to this witness testifying about evidence that the jury  
7 already heard. The evidence and testimony is what it is.

8 THE COURT: Well, there were three different  
9 categories, as I understood his answer. There's grand jury  
10 testimony, which I don't think they have had exposure to  
11 for Allen Sinclair, and then there is the direct and  
12 cross-examination.

13 MR. TRAFICANT: Yes.

14 THE COURT: Which was during this trial,  
15 Congressman?

16 MR. TRAFICANT: Yes.

17 THE COURT: They have had an opportunity to  
18 hear that testimony.

19 Q. As the investigator, did you identify certain  
20 expenditures and purchases of Mr. Sinclair?

21 A. Yes.

22 Q. And what were they?

23 A. A van, a -- I believe it was a rental of another  
24 vehicle. There may have been a note, loan, and after that  
25 there was a purchase of a residence.

Robertson - Direct

1 Q. What was the cost of the purchase of that residence?

2 A. It was close to, if not exactly, \$275,000.

3 Q. Were there any other expenses relative to lawyer  
4 activities?

5 A. I'm sorry, sir, relative to lawyer activities?

6 Q. Yes. Advertising?

7 A. There was an expense that he -- that was in the  
8 transcript, something in the vicinity of \$50,000 in legal  
9 advertising.

10 THE COURT: Sir, was this in the court  
11 transcript of these proceedings in this trial that you're  
12 talking about?

13 THE WITNESS: Yes, ma'am.

14 THE COURT: I'd like you to limit yourself to  
15 the grand jury testimony, if it has not been heard by this  
16 witness.

17 MR. TRAFICANT: This is to be known as  
18 Defense Exhibit -- I gave this to you.

19 THE COURT: I think we should take a morning  
20 break and we'll work this out. How is that? It's time.  
21 This is a 30-minute break, Ladies and Gentlemen.

22 THE CLERK: All rise for the jury.

23 (Jury out at 10:37 a.m.)

24 THE COURT: We have a half an hour. We have  
25 issues that are of some concern right here regarding this

1 witness, and we have issues regarding the prior witness,  
2 Michael Antonoff.

3 I suggest we take a ten-minute break, let the jurors  
4 who go out during the break go out, and then we will come  
5 back in.

6 So gentlemen, you have a ten-minute break, as you do,  
7 sir. Very well. We'll reconvene without the jury in ten  
8 minutes.

9 (Recess had.)

10 THE COURT: Let's begin with this issue of  
11 Michael Antonoff. The Court ruled directly on a motion  
12 that attached his affidavit to it. To the extent that  
13 you're intending to now make inquiries regarding that  
14 situation, I've already ruled on it, and I don't want you  
15 to bring that up again. If you want to ask him about  
16 something else that's not connected to that --

17 MR. TRAFICANT: I'm going to ask about an FBI  
18 agent taking pictures of him and following him around while  
19 he was serving subpoenas.

20 THE COURT: Do you read the docket in this  
21 case?

22 MR. TRAFICANT: I read the docket.

23 THE COURT: Well, I ruled on it.

24 MR. TRAFICANT: I want it on the record.

25 THE COURT: It's on the record. Your motion



1       and affidavit is part of the record.

2                   MR. TRAFICANT: And I object to you limiting  
3       my opportunity to examine witnesses.

4                   THE COURT: Well, you can't now call somebody  
5       to the stand and have them do what I've already ruled we  
6       won't accept in this case.

7                   MR. MORFORD: Your Honor, I want to bring one  
8       thing to the Court's attention, because I don't believe  
9       that was unintentional at all. On Friday, the Court asked  
10      Congressman Traficant who he intended to call today, and he  
11      said he didn't even know, which wasn't true based on the  
12      documents we were given this morning and based on the fact  
13      he's been preparing this man Mr. Robertson for several  
14      days.

15                  Be that as it may, he said, "I will call the  
16      government over the weekend and tell you who I am calling."  
17      This morning he called and left a message with Mr. Kall  
18      saying, "I am calling Melinda Davies and I am calling  
19      Robertson." He never mentioned Michael Antonoff because he  
20      knew he wasn't allowed to call Michael Antonoff and ask  
21      those questions because the Court had already ruled.

22                  And I object to him once again -- this isn't the  
23      first time -- doing this stuff in front of the jury to try  
24      to create the impression that he's being kept from putting  
25      on his defense.

1                   MR. TRAFICANT: I'd like to respond that. I  
2           didn't call this morning. I called yesterday and left an  
3           answering service for Mr. Kall.

4                   I wasn't sure about Mr. Antonoff being able to make  
5           it because he's trying to serve subpoenas.

6                   THE COURT: Well, you certainly should be  
7           sure you couldn't ask him the questions you asked him since  
8           we already ruled on that. It's part of the record in the  
9           case, and you know it.

10                  MR. TRAFICANT: Well, I want to proffer for  
11           the record --

12                  THE COURT: You have his affidavit already  
13           filed in the records of this Court.

14                  MR. TRAFICANT: I want to proffer it now.

15                  THE COURT: All right. Go right ahead.

16                  MR. TRAFICANT: That he was -- his wife, he  
17           was separated from, notified there was a man across the  
18           street taking pictures of him.

19                  THE COURT: It's all in your affidavit.

20                  MR. TRAFICANT: He ran the man down. He saw  
21           the partial flash of a badge. He did recognize the color  
22           of the car. He didn't get the license plate because he was  
23           not behind the car, the car was in front of another, and  
24           the FBI agent -- that he was sure it was told him to "Get  
25           out of here, buddy, if you don't want any trouble."

1           Now look, they've been following my witnesses around.  
2           You've been keeping my witnesses from testifying. You've  
3           ruled every one out even though I had a consent tape on  
4           Manganaro. I certainly have shown with Saadey a situation  
5           where under extreme stress a statement was made, clearly an  
6           exception to the hearsay rule. You've yet to rule on that.

7           You've thrown everything out in this case. Then you  
8           say I have no witnesses. So just for the record --

9           THE COURT: Congressman --

10          MR. TRAFICANT: I'll accept your rulings, but  
11          I want to say this.

12          THE COURT: Today you didn't accept them.  
13          You waited until the jury was in the box and then tried to  
14          put in front of that jury testimony which the Court has  
15          ruled you could not put in front of that jury.

16          MR. TRAFICANT: You ruled on the strength  
17          that he said he couldn't identify the color of that car and  
18          that he didn't see a badge.

19          THE COURT: Congressman, I think the best  
20          thing to do now is move to the witness you have here today  
21          so we can discuss what it is that you're going forward with  
22          him on. The question of Antonoff, you've now made your  
23          objection for the record, you've preserved it, and the  
24          question of this particular witness is concluded.

25          MR. TRAFICANT: I want to voir dire this

1 witness as a expert, period.

2 MR. MORFORD: First of all, object because  
3 under Rule 16, he never provided us any notice that he was  
4 going to put on a expert. The first time we even heard of  
5 this man was this morning when he walked in and handed us a  
6 bunch of charts and evidence that we've never seen before.  
7 And he's been notified on several times that this is not  
8 how you can proceed in a case.

9 We gave him advance notice of --

10 MR. TRAFICANT: The government notified --

11 THE COURT: Stop interrupting, Congressman.  
12 Don't interrupt.

13 MR. TRAFICANT: He's misrepresenting.

14 THE COURT: Stop interrupting. Don't  
15 interrupt.

16 MR. MORFORD: I'll point out --

17 THE COURT: Please be seated so that this  
18 gentleman can talk, and then you'll be able to talk. Sit  
19 down.

20 MR. TRAFICANT: Thank you. Just don't have  
21 him misrepresent me.

22 MR. MORFORD: Your Honor, when we called the  
23 IRS agent, we gave Congressman Traficant notice. We gave  
24 him the charts well in advance.

25 MR. SMITH: Weeks.

1 MR. MORFORD: Weeks in advance.

2 Number two, the Congressman asked for a separation of  
3 witnesses and asked this Court to rule that witnesses could  
4 not hear or review the testimony of other witnesses.  
5 Because of that order, we filed a motion with the Court  
6 before our IRS witness testified, and we asked the Court  
7 for permission to allow him to review transcripts and then  
8 allow him to sit in on the testimony of one particular  
9 witness.

10 Congressman Traficant went ahead without any prior  
11 approval by the Court and just gave the witness this stuff  
12 as though he had never made the request in the first place,  
13 and I believe the reason was, is because he didn't want us  
14 to know he was calling this man. Whether that was true or  
15 not, the point is we never got any notice, we never got any  
16 charts, we never got any summary report, we never got any  
17 description of what the supposed expert would testify to.

18 What we got was we walked in this morning,  
19 got handed a bunch of stuff, and suddenly he's on the  
20 stand. And I object on the fact that we weren't given  
21 proper notice. If he was going to call an expert, he had  
22 to give us a preview of what the expert would testify so  
23 that we could adequately prepare, which is what the rule  
24 provides.

25 MR. TRAFICANT: Your Honor, I didn't get

1       these charts until this weekend. I gave them  
2       Mr. Robertson's name two weeks ago that he would be called.

3               I gave the name. I didn't give the time. Now,  
4       Mr. Robertson --

5               THE COURT: How did you give the name?

6               MR. TRAFICANT: I told them I'd be calling a  
7       Michael Robertson, and I didn't get the documents. The  
8       documents came late from, in fact, Home Savings & Loan. As  
9       soon as I got the documents I needed -- I still didn't  
10      receive all the documents -- we put together a partial  
11      scenario that was presented to me just last night, and gave  
12      it to them this morning. And that is the status of it.

13              MR. MORFORD: He --

14              MR. TRAFICANT: Let me --

15              THE COURT: You be seated now, please. Go  
16      ahead, Mr. Traficant.

17              MR. TRAFICANT: It is a misrepresentation of  
18      the facts to say I did not give them the name of Michael  
19      Robertson and I'd be calling Michael Robertson. He is a  
20      17-year veteran of the Secret Service.

21              THE COURT: We know --

22              MR. TRAFICANT: He has taught and instructed.

23              THE COURT: We know some of his credentials.  
24      I'm going to let you put him on the stand if you want to so  
25      you can elicit further credentials. If you want to elicit

1 further credentials from him, we'll do it without the  
2 hearing of the jury. But there is a more important thing  
3 we have to address, I believe, and that is that to have  
4 this person review transcripts after you asked for a  
5 separation of witnesses and then also to have him  
6 apparently asked to testify on things that are the jury's  
7 responsibility to determine in this case is the real area  
8 of difficulty.

9 MR. TRAFICANT: Is he an expert --

10 THE COURT: So if you -- I don't know if he's  
11 an expert.

12 MR. TRAFICANT: And does he give an opinion?

13 THE COURT: I don't know what his opinion is  
14 going to be elicited on.

15 MR. TRAFICANT: Well then, let's voir dire  
16 this man.

17 THE COURT: What sort of expert are you  
18 proposing we see him as?

19 MR. TRAFICANT: He has handled fraud cases  
20 and money cases for 17 years. He headed the division of  
21 the Secret Service in the Canton region.

22 THE COURT: But what --

23 MR. TRAFICANT: He was in fact assigned by  
24 Judge Aldrich in a particular court.

25 THE COURT: But as to --

1 MR. TRAFICANT: He's testified --

2 THE COURT: What is he going to testify to as  
3 an expert in this case? What --

4 MR. TRAFICANT: Into the method of the  
5 investigation that had taken place and what had not taken  
6 place, and to what has been offered into evidence --

7 THE COURT: What investigation, Congressman?

8 MR. TRAFICANT: The government's  
9 investigation, and lack of investigation. And what are  
10 standard procedures to meeting a burden of proof.

11 THE COURT: Well, that's a legal question.  
12 He can't answer that question.

13 MR. TRAFICANT: No, but he can speak to an  
14 investigation and his background in dealing with money and  
15 the handling of money, and investigating fraud, and  
16 transfers of accounts, he could testify to those matters.  
17 And he is an expert in those affairs.

18 THE COURT: Okay. Let's just delineate  
19 exactly what you want his expertise to be elicited  
20 regarding.

21 MR. TRAFICANT: What the government did.

22 THE COURT: Well, we can't have -- there is  
23 no such thing as an expert on what the government did.

24 MR. TRAFICANT: Did not the fellow from  
25 Philadelphia simply add up numbers? Did he do any



1 investigation? Have you brought before this Court anyone  
2 to investigate or show the corroboration of any money  
3 between Cafaro and any of these people?

4 THE COURT: Well, I didn't bring anyone  
5 before the Court.

6 MR. TRAFICANT: But what I'm showing, and  
7 attempting to show, is that there has been no investigation  
8 and no corroborative evidence of any sort to take this  
9 beyond the preponderance of the evidence presented in this  
10 case.

11 THE COURT: Okay. Would you be seated now  
12 and we'll let the government respond to this description of  
13 what expertise you're relying on here?

14 MR. MORFORD: Yes, Your Honor.

15 The government's investigation is not on trial in  
16 this case. What is on trial are ten specific offenses with  
17 which Congressman Traficant is charged. It's up to the  
18 jury to determine whether or not the evidence that the  
19 government has placed into evidence sufficiently proves  
20 each of those charges beyond a reasonable doubt, period.  
21 And all this other stuff he's talking about is irrelevant,  
22 it invades the province of the jury as the finder of fact,  
23 and it gets into legal conclusions that  
24 are -- all of which is totally inadmissible.

25 MR. TRAFICANT: I can't offer an expert to

1 state that when you find a witness that has no physical  
2 evidence attached to their statement, that there should not  
3 be an effort made to, in fact, corroborate that statement.  
4 Is that the statement of the prosecution in this case?

5 THE COURT: Well, is that what you're asking  
6 him?

7 MR. TRAFICANT: Yes, I am.

8 THE COURT: To testify to? Very well. Now I  
9 know what you're asking him to testify to. All right? Now I  
10 know, so you will not be allowed to go forward and  
11 qualify him as an expert to do that. He clearly has areas  
12 of expertise that you've already elicited from him, but as  
13 an expert witness to decide that, no. So we'll continue  
14 our recess and bring the jury back at the time that we're  
15 going to bring them back.

16 You may have other things you want to ask this  
17 gentleman.

18 MR. MORFORD: Your Honor, if he does, I would  
19 ask that he advise the Court so that we don't get into more  
20 inadmissible stuff.

21 MR. TRAFICANT: Why don't I just hand you the  
22 case. I've had enough of this.

23 MR. MORFORD: Why doesn't he read Rule 16.

24 MR. TRAFICANT: I want an opportunity to voir  
25 dire this witness as an expert and have him testify into

1       investigatory matters since this case does not meet the  
2       standard of burden of proof beyond a reasonable doubt.

3               THE COURT: Well then, the jury will so find,  
4       sir. It's their responsibility.

5               MR. TRAFICANT: But I should have the right  
6       to present that to a jury. And I should have a right to  
7       have an expert testify as to what he has uncovered in his  
8       investigation.

9               THE COURT: Well, that you may be able to do.

10              MR. TRAFICANT: And that I will do.

11              MR. MORFORD: But if he's going to do that, I  
12       believe he needs to tell the Court what those things are or  
13       we're going to lapse into all this inadmissible stuff in  
14       front of the jury again.

15              THE COURT: Well, I don't think we'll be  
16       lapsing into it.

17              MR. TRAFICANT: Listen, I've given you  
18       enough.

19              MR. MORFORD: Sir, please address the Court  
20       and not me.

21              MR. TRAFICANT: I am.

22              THE COURT: Congressman. Congressman. Turn  
23       around and address the Court. I'm the Judge here. He's  
24       just your colleague.

25              Turn around.

1                   MR. TRAFICANT: He's not my colleague. I'm  
2                   the son of a truck driver. I have no oath and I can go on  
3                   the street with my First Amendment right and say exactly  
4                   what you've just done.

5                   THE COURT: Well, if you'd like to go --

6                   MR. TRAFICANT: I think I'm going to.

7                   THE COURT: -- go out and do it.

8                   MR. TRAFICANT: I will. But you are denying  
9                   me the right to defend myself.

10                  THE COURT: I think you've made your point  
11                  for the Court of Appeals, and now we will continue our  
12                  recess.

13                  MR. TRAFICANT: The Court of Appeals? Am I  
14                  convicted already in the mind of the Judge?

15                  THE COURT: No.

16                  MR. TRAFICANT: Then why do you keep saying  
17                  that?

18                  THE COURT: Because there's a rule.

19                  MR. TRAFICANT: I don't plan to go to the  
20                  Court of appeals. I plan to win here.

21                  THE COURT: There is a rule in this courtroom  
22                  which we've gone over with you time and time again, which  
23                  is, after you've made your objection and made it in such a  
24                  way that you could make an appeal if you wish to, you will  
25                  not continuously go back and reargue the point. And this

Robertson - Direct

1 is a good example of your trying to do that.

2 MR. TRAFICANT: Your Honor, you just passed  
3 out six motions denying everything. You have given them  
4 everything in this case. All they have is a paper trail.  
5 Cafaro never even checked to see if that money was spent on  
6 a boat, for crying out loud. They didn't even bring the  
7 investigators in. They brought a guy in who couldn't even  
8 divide and cost the taxpayers hundreds of thousands of  
9 dollars.

10 THE COURT: Congressman? We're going to  
11 continue our break now. Take ten minutes. We'll be back.

12 MR. TRAFICANT: Give me 15. I've got to go  
13 to the bathroom.

14 MR. TRAFICANT: I'll give you 10.

15 MR. TRAFICANT: I might be late.

16 THE COURT: Well, the jury will be in here  
17 waiting. (Recess had.)

18 (Jury in at 11:19 a.m.)

19 THE COURT: Thank you, sir. You're still  
20 under oath.

21 THE WITNESS: Yes, Your Honor.

22 BY MR. TRAFICANT:

23 Q. Mr. Robertson, how many accounts did Mrs. Sinclair  
24 have total?

25 A. At Home Savings, there were five accounts.

Robertson - Direct

1 Q. Did we receive any information from any other banks?

2 A. No, sir, no responses from any other banks.

3 Q. Did you prepare a document relative to deposits of  
4 Mr. Sinclair?

5 A. Yes, sir, I did.

6 MR. MORFORD: Your Honor, I'm going to object  
7 to portions of this document which are clearly argument  
8 that can't be testified to by this witness, and I'd like to  
9 ask you to take a look particularly at the things at the  
10 bottom in the bold.

11 THE COURT: Did you make this yourself, sir?

12 THE WITNESS: Yes, Your Honor.

13 THE COURT: Is this your own? All right.

14 The objection is overruled.

15 Q. I'm going to put this up on the screen. Would you  
16 identify its number for the jury?

17 A. Yes, sir. Defense Exhibit 8901.

18 MR. TRAFICANT: That would be S-901, Your  
19 Honor.

20 THE COURT: Okay.

21 Q. As a Secret Service agent, did you investigate  
22 matters of fraud?

23 A. Yes, sir.

24 Q. Did you investigate matters of paper trail of  
25 dollars?

Robertson - Direct

1 A. In my private practice, yes, sir.

2 Q. What is the exhibit number on this? S-901?

3 A. Yes, sir.

4 Q. What in fact does this document signify?

5 A. In reviewing the documents, the figure of \$2500 based  
6 on the withdrawal from the joint savings account of Allen  
7 and Kim Sinclair had come up on another exhibit, and one of  
8 many tasks of going through paper documents, such as  
9 deposits and withdrawals, is to look for like and similar  
10 numbers.

11 This happened to come up, and I plotted it  
12 out as the exact dollar, \$2500 deposits into Allen  
13 Sinclair's IOLTA account, being his interest on lawyers  
14 trust account, and it turned out that during this same time  
15 period, as the other chart which showed his withdrawals of  
16 \$2500 based on his treasury check deposits, that during  
17 this same time period there were nine deposits into his  
18 IOLTA account, as they're called, on average four days  
19 after the \$2500 was taken out of the other account.

20 And other than that, the numbers were significant  
21 from the standpoint that we were talking the same numbers.  
22 There's been no value placed on this as far as determining  
23 intent or anything else. It's showing an unusual pattern  
24 that happened shortly after the money was withdrawn from  
25 this other account.





Robertson - Direct

1 THE WITNESS: Between --

2 MR. TRAFICANT: Would the court reporter  
3 repeat it?

4 THE COURT: "In the months immediately  
5 following, and I believe through February of 2002"?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Thank you.

8 MR. MORFORD: Your Honor, can I ask he speak  
9 into the microphone? I'm having a hard time here.

10 THE COURT: Okay. And the folks in the back  
11 also need to hear you.

12 MR. MORFORD: You can actually pull that out.

13 Q. In your work as a Secret Service agent, was your  
14 methodology that of seeking and looking at patterns of  
15 behavior?

16 A. Yes. Similarities and dissimilarities, changes in  
17 patterns, inconsistent changes in patterns.

18 Q. Of the five accounts, how many accounts had the  
19 government shown the jury?

20 MR. MORFORD: Objection.

21 THE COURT: Sustained. The jury has been  
22 sitting here. They know what's happened.

23 Q. Did you arrive at any conclusion after having  
24 reviewed this evidence the government has presented?

25 MR. MORFORD: Objection.

Robertson - Direct

1 THE COURT: Which are you talking about?

2 Just this right here (indicating)?

3 MR. TRAFICANT: That which he had talked  
4 about and testified and presented documents about today.

5 THE COURT: Oh. We had a hearing outside the  
6 presence of the jury. At the end of that hearing it was  
7 concluded that this gentleman could not testify to that.  
8 He didn't qualify to testify to that. So we won't be able  
9 to go forward, as you well know.

10 Q. As a Secret Service agent, would you attempt to  
11 corroborate the words of a witness with physical  
12 corroborative evidence?

13 MR. MORFORD: Objection. This is argument,  
14 Your Honor.

15 THE COURT: All right. It is argument,  
16 Congressman.

17 Q. Were you able to identify any corroboration of  
18 physical evidence associated with this witness?

19 THE COURT: Congressman, we've had a long  
20 trial here. There will be evidence submitted to this jury,  
21 and they'll be in position to make determinations that  
22 they're required to make under the law.

23 Q. Were you ever asked to testify in federal courts?

24 A. Yes, sir.

25 Q. How many times have you testified in federal courts?

Robertson - Direct

1 A. Including magistrates hearings, dozens of times.

2 Q. Were you ever requested by a Federal Judge to appear  
3 in a court?

4 A. No, sir.

5 Q. In your role as a Secret Service agent, did you  
6 testify on behalf of the government in most cases?

7 A. When I was with the government, all my testimony  
8 would have been for the government.

9 Q. In examining this pattern, what did you determine?

10 A. Are we talking about this pattern on the screen at  
11 this time?

12 Q. Yes.

13 MR. MORFORD: Objection again, Your Honor.

14 THE COURT: Sustained.

15 Q. As a Secret Service agent, are you familiar with  
16 treasury laws?

17 A. I would be familiar with the treasury laws that I was  
18 involved with -- in which I was involved with the  
19 investigation of. There were many laws that surfaced on  
20 rare occasion, and we'd have to go back and relook up the  
21 laws and the elements of the crime.

22 Q. In your investigation, did you uncover any  
23 disciplinary action against this witness?

24 MR. MORFORD: Objection. It would be  
25 hearsay, Your Honor.

Robertson - Direct

1 Q. Do you have knowledge of any disciplinary action  
2 taken against this witness?

3 THE COURT: What witness are you talking  
4 about?

5 MR. TRAFICANT: Mr. Sinclair.

6 THE COURT: Do you have any firsthand  
7 knowledge?

8 THE WITNESS: No, Your Honor.

9 THE COURT: Thank you.

10 Q. Did you review the grand jury testimony?

11 A. Yes, sir, I did, on Mr. Sinclair.

12 Q. Was there mention of --

13 MR. MORFORD: Objection.

14 Q. -- disciplinary actions?

15 THE COURT: The objections are sustained.

16 Q. Was it your impression that any fraudulent act could  
17 cause Mr. Sinclair to lose his license?

18 MR. MORFORD: Objection to his impressions.

19 THE COURT: His impressions won't help this  
20 jury. And this jury did hear about disciplinary, various  
21 disciplinary actions weeks ago in this trial.

22 Q. Mr. Robertson, were you ever denied the opportunity  
23 to testify as you are being denied today?

24 MR. MORFORD: Objection.

25 THE COURT: Well, that's a statement, not

1       really a question.

2                   MR. TRAFICANT: No further questions.

3                   THE COURT: And it depends on what it is  
4       you're asking him.

5                   MR. TRAFICANT: No further questions.

6                   THE COURT: To the extent he's being asked to  
7       testify to things which are in the province of this jury to  
8       decide, we've been over that during the break, and he  
9       cannot supplant the jury in this case.

10                  MR. MORFORD: Your Honor, at five minutes to  
11       9:00 this morning, I was just handed charts and evidence  
12       and this testimony. I would like to ask if we could take  
13       an early lunch so I can actually look at this stuff and  
14       prepare my cross-examination.

15                  MR. TRAFICANT: I object.

16                  THE COURT: Overruled. If you'll give them  
17       proper notice, we wouldn't have to do that, but we will  
18       have to go forward with the cross-examination and take an  
19       early lunch. It will just mean you have until 1:30,  
20       jurors, for your lunch today. So you'll have more time.  
21       We'll bring this gentleman back for cross-examination.  
22       Thank you. We're in recess.

23                  (Jury out at 11:33 a.m.)

24                  (Whereupon, at 11:33 a.m., the luncheon recess was  
25       had, to reconvene at 1:30 p.m., the same day.)

## Robertson - Cross

1 MONDAY, APRIL 1, 2002, AFTERNOON SESSION, 1:37 P.M.

2 (Jury in at 1:37 p.m.)

3 THE COURT: Sir, you are still under oath.

4 THE WITNESS: Yes, Your Honor.

5 THE COURT: Mr. Morford.

6 CROSS-EXAMINATION OF MICHAEL L. ROBERTSON

7 BY MR. MORFORD:

8 Q. Good afternoon, sir.

9 A. Good afternoon.

10 Q. I'm going to ask you if you could take that  
11 microphone out and hold it, because I've had a little bit  
12 of trouble hearing you today.

13 You and I have never met before, correct?

14 A. I don't believe so. You do look familiar, but I  
15 don't really recall for sure, sir.

16 Q. We certainly have never met and spoken about this  
17 case, correct?

18 A. No, sir.

19 Q. Now, as I understand it, you spent 17 years working  
20 with the Secret Service, is that correct?

21 A. Yes, sir.

22 Q. And what year did you actually leave?

23 A. It would have been, I believe it was 1988 -- late  
24 '87, '88.

25 Q. And how old were you when you left?

Robertson - Cross

1 A. 45, 46.

2 Q. Now, the way the retirement system works for law  
3 enforcement officers, if you'd worked 17 years and were 45  
4 or 46, you would have what, about four or five years left  
5 before your full retirement would have vested?

6 A. No, sir.

7 Q. How long?

8 A. I'm not really sure exactly how long. With Secret  
9 Service you work until age 55 unless you have ten or more  
10 years of protection, and then you can qualify for a  
11 straight 20.

12 Q. What was your particular situation? How much longer  
13 would you have had to work to get your full benefits?

14 A. My new assignment was in the criminal records section  
15 in Washington, D.C., which in an effort to provide  
16 continuity in that unit. They, for the lack of a better  
17 word, protect you from protection assignments. In other  
18 words, you strictly work your investigative hours, and in  
19 there you're not exposed to the protection hours which you  
20 need to accumulate.

21 Q. You said your next assignment. They were going to  
22 transfer you to that unit?

23 A. Yes, sir.

24 Q. And why was that?

25 A. I had finished a unique wiretap case here in the

Robertson - Cross

1 Northern District of Ohio, and I had developed it from  
2 scratch, and based on the experience of learning all this  
3 material, I was asked if I wanted to transfer to the  
4 criminal records section in order to do more work in the  
5 areas of the wiretaps.

6 Q. Were there any problems that you encountered in that  
7 wiretap case?

8 A. What sort of problems, sir?

9 Q. Any problems in terms of your own performance.

10 A. No, sir.

11 Q. Were there any -- were there any things done wrong in  
12 that case that you recall?

13 A. The only thing that was done wrong, in my estimation,  
14 was after we had the wiretap up and running for 30 days, I  
15 went to your office, not you personally, but to the U.S.  
16 Attorney's Office, and felt that we had pretty much done  
17 everything we could do as far as the wiretap. It was  
18 becoming quite repetitive, we were getting no new  
19 information, and I attempted to get it shut down.

20 Q. Have you personally ever had any type of disciplinary  
21 actions during the time you were with the federal  
22 government?

23 A. No, sir.

24 Q. So why did you leave after 17 years? What was the  
25 reason?



Robertson - Cross

1       A.     My middle boy was entering his senior year in high  
2       school here in Ohio, and three years before that I had  
3       uprooted the family to go to Miami when my oldest boy was  
4       in his senior year in high school, and I thought long and  
5       hard and I made a very difficult decision that I had to  
6       place the family first, and I decided to remain here in  
7       Ohio.

8       Q.     And then when you left the service, did you set up  
9       your own private investigation firm right away?

10      A.     Within -- yes, sir, within two or three months.

11      Q.     And did you set that up as the way that you could  
12      support your family and make a living?

13      A.     Yes, sir.

14      Q.     So this is something you do for profit, correct?

15      A.     Yes, sir.

16      Q.     And it's a business that you do in order to make  
17      profit, correct?

18      A.     That's correct.

19      Q.     And in the normal case, you would be paid to conduct  
20      the investigation that you've conducted in this case,  
21      correct?

22      A.     Yes.

23      Q.     And then you would also be paid for your testimony,  
24      correct?

25      A.     Yes.

Robertson - Cross

1 Q. And what do you charge per hour currently?

2 A. I have two different fees. When I'm working on fraud  
3 cases that involve questioned documents, my standard  
4 published fee is \$150 an hour. When I'm doing extensive,  
5 long investigations involving a lot of legwork, the cost  
6 would really have to be brought down. I charge \$75 an  
7 hour.

8 Q. Are you being paid in this case?

9 A. Yes, sir.

10 Q. And how much are you being paid per hour in this  
11 case?

12 A. I am being paid a total of \$1.

13 Q. And why would you take this case -- if you do this  
14 for a living, why would you take your time and put your  
15 time into this case for really no real compensation?

16 A. I've had an interest in the congressman, not knowing  
17 him personally but having seen him on television, and I had  
18 an interest in the case from the standpoint that how, in  
19 fact, it was pursued, how the case was developed, you know,  
20 where, you know, what all is involved other than having  
21 people make one statement against somebody and is there  
22 more to it than that.

23 Q. From what you're telling us, you're a fan of  
24 Congressman Traficant, is that fair?

25 A. I'm sorry, sir?

Robertson - Cross

1 Q. Would it be fair to say you are a fan of Congressman  
2 Traficant?

3 A. I'm sorry?

4 Q. A fan? You're someone who is favorable towards  
5 Congressman Traficant based upon what you've seen on TV and  
6 read?

7 A. I belong to a different party than he does.

8 Q. That's not my question.

9 A. But yes, I've been intrigued and interested in many  
10 of the things he's had to say.

11 Q. And as a result of that, you said you followed this  
12 case in the media, correct?

13 A. Yes, sir.

14 Q. And that at some point you reached out and actually  
15 offered to come and do some work for the Congressman for  
16 free, is that correct?

17 A. Yes, sir.

18 Q. Have you ever had any discussions with Congressman  
19 Traficant that maybe there could be some more work for you  
20 down the road?

21 A. No, sir.

22 Q. You mentioned during an answer to one of Congressman  
23 Traficant's questions that there was a lawyer who had  
24 actually referred you to him. Is that correct?

25 A. That's correct.

Robertson - Cross

1 Q. He didn't ask you the name of that lawyer. Would you  
2 go ahead and tell us who that is?

3 A. Mark Colucci.

4 Q. Were you aware at the time you were talking with  
5 Mr. Colucci that Mr. Colucci has been performing and  
6 providing legal services to Congressman Traficant in this  
7 case?

8 MR. TRAFICANT: Object.

9 THE COURT: You can answer.

10 A. Not at that immediate time, no, sir.

11 Q. You know that now as you sit here today, don't you,  
12 sir?

13 A. Yes, sir.

14 Q. In fact, didn't Mr. Colucci help to prepare you for  
15 your testimony here today?

16 A. No, sir.

17 Q. Did he do anything to assist you in any way or assist  
18 Congressman Traficant in any way in the work you've done in  
19 this case?

20 A. The communications mostly by e-mail that we've had  
21 have been very much one way, coming from me to Mr. Colucci,  
22 giving my input to be passed on, you know, with the  
23 Congressman, and at no time was I prepared or rehearsed by  
24 Mr. Colucci.

25 Q. Well, but the answer to my question then is you have

Robertson - Cross

1       been communicating with Mr. Colucci as part of the  
2       preparation of your testimony here today, correct?

3       A.     My communications with Mr. Colucci has been  
4       forwarding requests to him as far as obtaining more  
5       information, like bank records.

6       Q.     Have you sent any e-mails or communications to  
7       Mr. Colucci regarding your findings or what you would  
8       testify to or things that you testified to here today?

9       A.     No, sir.

10      Q.     Have you made any written statements whatsoever?

11      A.     Regarding my testimony?

12      Q.     Regarding any matter that you've testified to here  
13      today.

14      A.     There -- I'm sure there would have been perhaps an  
15      e-mail that would have gone into preliminary findings as  
16      far as paper trails.

17      Q.     So you did send some, at least one e-mail, you're  
18      saying, to Mr. Colucci giving him your preliminary  
19      findings. Is that what you're testifying?

20      A.     I can't say for sure. I believe that I probably  
21      would have included that in one of my e-mails, yes, sir.

22      Q.     Of the two people, Mr. Colucci and Congressman  
23      Traficant, who did you communicate with the most regarding  
24      your findings?

25      A.     The Congressman.

Robertson - Cross

1 Q. Why were communicating with Mr. Colucci at all?

2 A. Most of it had to do with him obtaining the  
3 subpoenas. I would send the information that we need  
4 certain documents for certain months or whatever it might  
5 be. That was the thrust of my communication with  
6 Mr. Colucci.

7 Q. Now, the Congressman showed you two documents today,  
8 I think it's S-903 and S-904. Does that ring a bell? Do  
9 you recall those documents?

10 A. Perhaps just a little description of it, sir, I  
11 should.

12 Q. Well, I'll put them right up on the board here.

13 A. I recognize them now, sir.

14 Q. Where did you obtain these from?

15 A. From my computer.

16 Q. And when did you do that?

17 A. I believe it was obtained this last Friday or  
18 Saturday evening.

19 Q. This past weekend?

20 A. Yes, sir.

21 Q. Now, you testified on direct examination about a  
22 chart. It's been put into evidence, Government's Exhibit  
23 1-27.1.

24 A. Yes, sir.

25 Q. Do you see that there?

Robertson - Cross

1 A. Yes, sir.

2 Q. And I'd like to ask you a few questions about this.  
3 First of all, you don't in any way contest the fact that  
4 based upon the documents in this case, \$26,600 cash was  
5 deposited into Congressman Traficant's personal account at  
6 Bank One, correct?

7 A. I take that document as accurate.

8 Q. Well, did you as part of your duties for Congressman  
9 Traficant, did you go through and compare the evidence in  
10 this case with that document to see if that was, in fact,  
11 correct?

12 A. Since it had already been presented as evidence, I  
13 did not go back and do it.

14 Q. Okay. Now, you testified on direct examination that  
15 one of the things you do as a former Secret Service agent,  
16 current private investigator, is you like to kind of hone  
17 in on patterns, correct?

18 A. Yes, sir.

19 Q. And as you look at this document, isn't it true you  
20 see a pattern of large cash deposits, generally \$2,000 to  
21 \$3,000 to \$1,000?

22 A. Yes, sir, at the beginning of the table.

23 Q. And as it gets down into 1999, there continues to be  
24 cash deposits in the amount of \$1,000, correct?

25 A. Yes, sir.

Robertson - Cross

1 Q. And these would be considered large cash deposits for  
2 someone that's not in some kind of a cash business,  
3 correct?

4 A. If a person is not in a cash business, yes.

5 Q. Now, because these deposits were made in cash, as an  
6 investigator, you can't go back and determine the actual  
7 source, correct?

8 A. At this late time, no, sir.

9 Q. Well, how about a year ago?

10 A. The closer you are to when the transaction took  
11 place, the more likely you could go back and track cash  
12 sources.

13 Q. If you get a bank account and the bank account shows  
14 \$2,000 deposited on September 19, 1995, and \$2,000  
15 deposited on August 27, 1996, isn't it true it is hard to  
16 conclusively trace the cash that went into that bank  
17 account without any specific source, sir?

18 A. I'd say it depends on which side of the case you'd be  
19 on. If, in fact, you're working with someone and they can  
20 say that, you know, here were the sources and you can go  
21 out and verify them independently, corroborate what, in  
22 fact, was within the document, then it is possible.

23 Q. I'm not talking about corroboration. I'm talking  
24 about when you see a cash deposit into a bank account and  
25 all it shows is cash, there's no way to conclusively prove



Robertson - Cross

1       that that same cash came from a particular place, correct?

2       A.     That's correct.

3       Q.     It's not like a check, where if you have a check  
4       that's deposited in the amount of \$2,000, you can get the  
5       check and run back and show exactly where it came from,  
6       correct?

7       A.     That's correct.

8       Q.     And as somebody who's done these kind of  
9       investigations, you understand that's the problem when  
10      people use cash, correct?

11      A.     That's correct.

12      Q.     And so as you sit here today and you look at that  
13      chart with all that cash coming in, you can't tell where it  
14      came from, can you?

15      A.     That's correct.

16      Q.     It could have come from any one of a number of  
17      sources, correct?

18      A.     That's correct.

19      Q.     And it could have come from kickbacks for all you  
20      know, correct?

21      A.     For all I know.

22      Q.     Now, as someone who has testified in other cases and  
23      does so for a living, your job as a witness is to answer  
24      the questions that are put to you, correct?

25      A.     Yes, sir.

Robertson - Cross

1 Q. You were asked a question by Congressman Traficant  
2 during his direct examination, you were asked to take the  
3 figure 11,700 and divide it by 24. Do you recall that?

4 A. Yes, sir.

5 Q. And what was the point of dividing it by 24, do you  
6 know?

7 A. No, sir.

8 Q. You just did what you were told, correct?

9 A. I was asked to do the math, yes, sir.

10 Q. Let me ask you this: If Congressman Traficant had  
11 asked you this question which he asked Mr. Hess, would you  
12 divide 11,700 by 12 months, would you go ahead and do that  
13 for me?

14 A. Yes. My first attempt comes up with \$975.

15 Q. Is there anything wrong with what you just did?

16 A. Mathematically?

17 Q. I asked you a question. I asked you to divide 11,700  
18 by 12, right?

19 A. That was a reasonable request, and that's what I did,  
20 yes, sir.

21 Q. But that's not what Congressman Traficant asked you  
22 to do. He asked you to do it by 24?

23 A. That's correct.

24 Q. I'd like to ask you some questions about your  
25 testimony in response to Congressman Traficant's questions

Robertson - Cross

1       about the January 24th 302. Do you recall he asked you a  
2       series of questions about that?

3       A.     Yes, sir.

4       Q.     And I believe you said one of the things that you  
5       highlighted and noticed on there was that there were  
6       questions reflected on that 302 regarding the ownership of  
7       the building at 11 Overhill Drive or Road, correct?

8       A.     That, if I recall, that was at the beginning of the  
9       302, yes, sir.

10      Q.     And you said that that was a reasonable area of  
11      inquiry, I think it was your testimony, correct?

12      A.     Well, I'm basing my opinion on what the questions  
13      were asked. I in looking at what was important to the  
14      questioner --

15      Q.     Meaning you were looking at what's important to  
16      Congressman Traficant in his case, correct?

17      A.     I'm looking at what was important to the person  
18      asking the questions, eliciting the responses that were on  
19      the 302.

20      Q.     Isn't it true, sir, that from the 302 you can tell  
21      that it was important to them to try to figure out who  
22      owned the building during the entire time that Congressman  
23      Traficant's office was renting the building, correct?

24      A.     Yes, yes.

25      Q.     Now, after you read that and decided that was

Robertson - Cross

1       important, did you go out and start pulling records and  
2       subpoenaing bank records for Henry DiBlasio?

3       A.     No, sir.

4       Q.     Well, sir, wouldn't it be important to do that if you  
5       were going to determine what the relationship of the  
6       building ownership was prior to the time that Allen  
7       Sinclair purchased it?

8       A.     There wasn't time.

9       Q.     That's just not something you did, in other words.

10      A.     That's correct.

11      Q.     You testified on direct to some documentation that  
12      showed that Allen Sinclair had signature authority over the  
13      KAS account, correct?

14      A.     Yes, sir.

15      Q.     I'd like to show you now what is marked as  
16      Government's Exhibits 1-53, 1-54, and 1-55. Do you see  
17      those in front of you?

18      A.     Yes, sir.

19      Q.     Starting with the first exhibit, 1-53, that's a check  
20      for Trumbull Land Company, correct?

21      A.     From, yes, sir.

22      Q.     And it says Trumbull Land Company, d/b/a, meaning  
23      doing business as, Newport Professional Center; is that  
24      correct?

25      A.     Yes, sir.

Robertson - Cross

1 Q. In your research for Congressman Traficant to prepare  
2 for this case, are you aware that the building was  
3 previously held in the name of Trumbull Land Company, d/b/a  
4 Newport Professional Center?

5 A. The name Newport Professional Center rings a bell,  
6 but I didn't focus on anything before '98.

7 Q. Well, who did Allen Sinclair or KAS buy the building  
8 from, sir?

9 A. From Mr. DiBlasio, and I believe that was a d/b/a  
10 involved. I just didn't get into that part of it. We  
11 didn't have time.

12 Q. Let me ask you this: Who signed this check for  
13 Trumbull Land Company?

14 A. The signature appears to be -- the last name appears  
15 to be DiBlasio.

16 Q. How about Exhibit 154, which is another Trumbull Land  
17 Company check?

18 A. Yes, sir.

19 Q. August 26, 1996?

20 A. Yes, sir.

21 Q. Who signed that one?

22 A. The same signature, Mr. -- or whoever it is,  
23 DiBlasio.

24 Q. How about Exhibit 1-55, it was a check on Trumbull  
25 Land Company account dated 10-5-98, payable to Nations

Robertson - Cross

1 Bank. Do you see that?

2 A. Yes, sir.

3 Q. It's also Mr. DiBlasio's signature, correct?

4 A. I'm not sure what his signature looks like, but the  
5 signature is DiBlasio.

6 Q. Well, sir, did you look to see if Mr. DiBlasio had  
7 signature authority on the nominee company that owned 11  
8 Overhill Road just as Allen Sinclair did with respect to  
9 KAS?

10 A. No, sir.

11 Q. And why not?

12 A. There wasn't time.

13 Q. There wasn't time or Congressman Traficant didn't ask  
14 you to look into the Henry DiBlasio aspect of this case?

15 A. No. There wasn't time. It was to concentrate mainly  
16 on the activities of 1998, 1999 involving the checking  
17 accounts as Mr. Sinclair was the witness in these  
18 particular counts.

19 Q. Well, sir, I believe your testimony on direct  
20 examination was that you were bothered by some of what you  
21 understood was happening here and you wanted to get  
22 involved and help, correct?

23 A. That's correct.

24 Q. Wasn't it true there was a lot of testimony about  
25 Henry DiBlasio's finances?

Robertson - Cross

1 A. There was testimony, yes, sir.

2 Q. And his ownership of the building?

3 A. Yes, sir.

4 Q. But you didn't think it was important to get involved  
5 in those things, did you, sir?

6 A. Mr. DiBlasio was removed from the -- at the point  
7 where I was interested in picking up the investigation,  
8 being 19 -- end of 1998, 1999.

9 Q. And why were you just interested in looking at '98  
10 and not the prior years, if you're so interested in getting  
11 to the bottom of everything here?

12 A. I wasn't able to get to the bottom of everything. I  
13 was interested in finding out Mr. Sinclair's veracity and  
14 credibility as a witness to see if, in fact --

15 THE COURT: That is exactly a question which  
16 only jurors address. The Judge doesn't address that, the  
17 parties don't, and neither do the witnesses.

18 MR. TRAFICANT: I object to that.

19 THE COURT: You may well object, sir.

20 Q. Now, sir, you testified you got involved in this case  
21 in mid February; is that correct?

22 A. February 23rd.

23 Q. February 23rd through the 28th was what, five days?

24 A. Yes, sir.

25 Q. Now we have how many weeks of March?

Robertson - Cross

1 A. Five.

2 Q. So during the five or six weeks you've been involved  
3 in this case, it's your testimony that you didn't bother to  
4 look at any of the evidence or information about  
5 Mr. DiBlasio, correct?

6 A. During the last five or six weeks, I haven't spent  
7 full time working on this case.

8 Q. That's not my question. My question is during those  
9 five or six weeks, you haven't bothered to look at any of  
10 the evidence as it related to Henry DiBlasio, have you?

11 A. That's correct.

12 Q. And when you were looking at the building records of  
13 Allen Sinclair, were you looking to see if he was really  
14 the true beneficial owner of the business and that KAS was  
15 merely his nominee? Is that what you were looking for,  
16 sir?

17 A. No. There, as far as the building itself goes, there  
18 wasn't any more effort spent on Mr. Sinclair's acquiring  
19 the building. Once it was done, I didn't go back and see  
20 exactly how that was done. Once it was in his name, then  
21 that was the person that was of interest to me as far as  
22 doing an investigation.

23 Q. So the building itself, once you took a look at what  
24 you looked at, you set that aside. It really didn't affect  
25 the outcome of what you testified to here today, correct?



Robertson - Cross

1 A. That's correct.

2 Q. So we can set the building testimony aside  
3 completely, right? Doesn't that sound --

4 A. Yes.

5 Q. From what you're telling us, it's really not  
6 relevant, correct?

7 A. Not from what I was told.

8 Q. Okay. Let's go to the main thing then that you did  
9 testify. You testified that you looked at some deposits  
10 into Mr. Sinclair's IOLTA account in the amount of \$2500,  
11 correct?

12 A. That's correct.

13 Q. And you said you saw a pattern of these \$2500  
14 deposits, and you thought that that was -- what was the  
15 word?

16 A. I don't recall, sir. Unusual or --

17 Q. Unusual, okay. And so it's your testimony  
18 that -- well, do you know what an IOLTA account is?

19 A. Yes, sir.

20 Q. What is an IOLTA account?

21 A. An IOLTA account is an account used by attorneys  
22 where they have to deposit money, such as settlement checks  
23 and retainers. IOLTA stands for interest on lawyers trust  
24 account.

25 Q. And it's your testimony that you thought it was

Robertson - Cross

1 strange that a lawyer who does personal injury work would  
2 make deposits into his IOLTA account in the amount of  
3 \$2500?

4 A. That's only half the picture. Yes, sir.

5 Q. What's so strange? Let's just start with that.  
6 What's so strange about a lawyer who does accident cases  
7 making deposits into his IOLTA account in the amount of  
8 \$2500?

9 A. That in itself isn't the unusual part. It's the fact  
10 that that stopped then in the next spring, after my chart  
11 that showed you that \$2500 deposits for a 22-month period  
12 ending in February of this year, there were no deposits for  
13 \$2500.

14 Q. Well, on that point let me ask you this, sir, because  
15 you testified that one of the things you did as a law  
16 enforcement officer and now as a private investigator is  
17 you like to look for patterns, right?

18 A. That's correct, sir.

19 Q. Isn't it true that one of the patterns that you saw  
20 in this case was that from the time Allen Sinclair received  
21 his very first full congressional paycheck from Congressman  
22 Traficant, every single month for the next 13 months he  
23 withdrew \$2500 cash?

24 A. That's correct.

25 Q. Would you say that's an unusual pattern, sir?

Robertson - Cross

1 A. Yes.

2 Q. And would you say that that stopped almost  
3 immediately after the FBI questioned Mr. Sinclair?

4 A. If the 302 reflects the initial date of the first  
5 contact with Mr. Sinclair, which would have been January  
6 24th, that would be correct.

7 Q. And so as someone who specializes in patterns, that's  
8 a very important pattern, is it not, sir?

9 A. It certainly is. It certainly is.

10 Q. Do we have a pattern in which a lawyer goes to work  
11 for Congressman Traficant and every single month that he  
12 gets a full paycheck, he takes out \$2500 cash, correct?

13 A. That's a large cash withdrawal from a deposit of  
14 roughly \$3500.

15 Q. Then immediately after the FBI asks him if he's  
16 kicking back on January 24th, they stop, correct?

17 A. Within a reasonable time, yes, sir. I can't give you  
18 the exact dates.

19 Q. There's no other check from which he withdraws \$2500  
20 cash after the FBI talks to him, is there, sir? You've  
21 been through these records.

22 A. The only checks we looked at were the treasury  
23 checks.

24 Q. And that's what I'm asking you about.

25 A. Yes.

Robertson - Cross

1 Q. The first treasury check after the FBI asks him about  
2 kickbacks, suddenly there's no \$2500 cash withdrawn,  
3 correct?

4 A. That's correct.

5 Q. Congressman Traficant asked you about physical  
6 evidence. Those cash withdrawal records are physical  
7 evidence, are they not?

8 A. Yes.

9 Q. And they prove that every single month from the time  
10 he was hired until the time the FBI talked to him, physical  
11 evidence, that Allen Sinclair was taking out \$2500 cash,  
12 correct?

13 A. That's correct.

14 Q. And all you're saying is that having seen that  
15 pattern, you also wanted to look to see other patterns, if  
16 they existed, right?

17 A. In addition to the \$2500 patterns.

18 Q. That when you found that other \$2500 pattern, that's  
19 what you were looking for, other patterns, correct?

20 A. Well, sir, yes. We see two patterns of \$2500, but in  
21 your instance of the \$2500 going into an account, you can't  
22 say, you know, where the money is coming from, and the same  
23 thing when you withdraw money of \$2500, you can't say where  
24 it's going. It's one person saying I gave it to somebody  
25 else.

Robertson - Cross

1 Q. Well, let's go with that then.

2 A. Okay.

3 Q. Let's take the first pattern, the pattern of Allen  
4 Sinclair taking \$2500 cash out of every paycheck.

5 A. Yes, sir.

6 Q. That's documented by bank records and testimony that  
7 that is cash, correct?

8 A. That's correct.

9 Q. There's no mistake about that at all, right?

10 A. That's correct.

11 Q. Now, the other pattern that you've pointed out, which  
12 you call a pattern, is that there were a number of \$2500  
13 deposits into an IOLTA account during that same period,  
14 right?

15 A. Yes. Not saying what they are, but they were \$2500  
16 deposits.

17 Q. And you have no idea whether those are cash or  
18 checks, correct?

19 A. We haven't had time to research them all, but the  
20 ones -- two or three we did, they did happen to be checks.

21 Q. Well, you didn't testify to that on direct, did you,  
22 sir?

23 A. Yes, sir. Yes, I did.

24 Q. Oh, you did?

25 A. Yes, sir.

Robertson - Cross

1 Q. Let me ask you this, sir: If, in fact, Allen  
2 Sinclair regularly received checks from insurance companies  
3 for clients he was representing in the amount of \$2500  
4 during this period that you call that a pattern --

5 A. Right.

6 Q. -- that would answer the whole question, right?

7 A. Except for the fact that the pattern for whatever  
8 reason then stops, and there are no more \$2500 checks. So  
9 it's quite a coincidence that during this time period you  
10 have money coming out of one account and within, on an  
11 average of four days, going back into another account.

12 Q. Well, let's go back then and talk about what you're  
13 suggesting here.

14 A. I'm suggesting, sir, it needs further investigation.

15 Q. Why?

16 A. That --

17 Q. What's the relevance of the \$2500 going into an IOLTA  
18 account whatsoever?

19 A. It's as much relevance as the \$2500 coming out of  
20 Mr. Sinclair's account that we can speculate whether it  
21 went here or there. We don't know.

22 Mr. Sinclair had a lot of debt. We don't know what  
23 he's doing with the cash. And as far as I know, there was  
24 no corroborative evidence to show that anybody tried to  
25 find out what, in fact, he did with that cash, other than

Robertson - Cross

1 taking his word for it.

2 Q. And you're suggesting that one possibility might be  
3 that he took some of that cash and deposited it into his  
4 IOLTA account, correct?

5 A. I'm suggesting we don't know what happened to that  
6 money.

7 Q. Isn't it true, sir, you're suggesting that is a  
8 possibility, that maybe some of that cash got deposited  
9 into the IOLTA account?

10 A. Until there is further investigation into those  
11 deposits, that has to be an assumption. It can be ruled  
12 out, but it should be investigated.

13 Q. But my question to you is: That's the only  
14 possibility that would help you in what you're testifying  
15 to here today, correct?

16 MR. TRAFICANT: Objection to the speculation.

17 THE COURT: Overruled. You can answer.

18 A. Okay. If, in fact, there are cash deposits, then  
19 that would be another alternative for where that money  
20 could have gone.

21 Q. Okay?

22 A. There has been no claim that that is cash.

23 Q. Right. And if that's not cash, if those are checks,  
24 then that rules that out entirely, correct?

25 A. That particular theory.

Robertson - Cross

1 Q. Yes.

2 A. But it's still -- it's still -- I can't figure out  
3 why in the world all you have is \$2500 deposits. So in  
4 other words, taking a check and saying, this check came  
5 from so-and-so, that isn't enough. You have to go one step  
6 further and make sure that that check actually came from  
7 whoever it may have been.

8 Q. But sir, my question is this: If, in fact, these  
9 were check deposits as opposed to cash deposits, then it  
10 doesn't matter, does it?

11 A. Not that particular aspect of it, that's correct.

12 Q. In fact, if all of these deposits that you've  
13 testified here to today were the deposits of checks from  
14 settlement proceeds or client payments, or insurance  
15 companies, then everything you've told the jury here today  
16 is irrelevant as to the charges in this case; isn't that  
17 true?

18 A. It's irrelevant as to what happened to go into those  
19 accounts with the \$2500, as far as the deposits go.

20 Q. So as to your chart and those deposits into the IOLTA  
21 account, if, in fact, those are insurance checks and not  
22 cash, then we can set that chart and that testimony aside  
23 because it really doesn't relate to the charges in this  
24 case anymore in any way, right?

25 A. I agree. If, in fact, it's taken one step further



Robertson - Cross

1 and not just to take the information at face value, but to  
2 verify that, in fact, they are checks, all it does is  
3 eliminate the hypothesis. In other words, not everything  
4 that you do as an investigator proves out one way or the  
5 other. That's why you're doing an investigation. You're  
6 trying to find out what's true and what's not. The truth  
7 is very important.

8 Q. Okay. And the truth, sir, is that all you've given  
9 the jury is a hypothesis that maybe some of these \$2500  
10 deposits are cash that Allen Sinclair took out of his  
11 paycheck and for some unexplained reason ran over and  
12 deposited into his IOLTA account, correct?

13 A. It is no more a hypothesis than the money was taken  
14 out in the first place and given to the Congressman.

15 Q. That's not my question. My question is: That's the  
16 hypothesis you presented to the jury, correct?

17 A. That is the hypothesis that was being investigated in  
18 determining whether it is true or not.

19 Q. Now, let me ask you some questions. You said you  
20 pulled two or three of the checks or two or three of these  
21 deposit items and found checks, correct?

22 A. That's correct.

23 Q. Which ones?

24 A. This was done last Friday. I talked to the lady that  
25 testified this morning, Mindy Davies, and I either picked

Robertson - Cross

1 the three months or I told her to pick three months. Now,  
2 if you want me to --

3 THE COURT: Which ones, is the question.

4 Q. I definitely want you to show me which one of these  
5 \$2500 figures are not cash that you've already concluded  
6 conclusively from documents are checks.

7 A. The October 13th --

8 Q. Is what?

9 A. A check.

10 Q. Then it would be okay to go ahead and cross that one  
11 off, correct?

12 A. Yes.

13 Q. But you didn't do that before you testified, right?

14 A. No. I was showing the pattern. I wasn't saying that  
15 the pattern was complete.

16 Q. Well, that's not part of the pattern. You already  
17 know that's a check, correct?

18 A. The pattern is the pattern. There's \$2500.

19 Q. Let's look for a pattern that would show the  
20 possibility, because isn't it true you're suggesting here  
21 when you say number of days after cash was withdrawn from  
22 the government check, that you're implying that because it  
23 was only a couple days after that, perhaps the cash that  
24 was withdrawn from the check was deposited into this  
25 account?

Robertson - Cross

1 A. I'm saying that this pattern was as unusual as the  
2 other pattern and just has not been proven that the money  
3 taken out of the account was put into a different account.  
4 I'm still saying that no matter whether these come back as  
5 checks or whatever, it's unusual that you have these  
6 deposits, and I can't explain it because we haven't  
7 investigated any further. Mindy only had a little bit of  
8 time on Friday, and I said, "Let's pick out three and see."

9 Q. Well, sir --

10 A. And in fact --

11 Q. When you put up here days after cash withdrawal from  
12 government check, what's the point of that entry?

13 A. The point of that entry is to show that it's a  
14 pattern that's unusual shortly after the withdrawal of the  
15 money from the other account.

16 Q. Because you're suggesting that perhaps this deposit  
17 came from the cash that came out of Allen's check just a  
18 couple days earlier, correct?

19 A. I'm saying the \$2500, that has to be reconciled  
20 regardless of where it came from.

21 Q. But you're trying to suggest by saying days after  
22 cash withdrawn from government check, that that's where  
23 this deposit came from, correct?

24 A. I'm trying to show that with this chart, that, in  
25 fact, it doesn't prove any more or any less than the chart

Robertson - Cross

1       that the government provided that stated that the  
2       withdrawal of the money went to the Congressman.

3       Q.     Well, you've just told the jury that as to October  
4       13th, that's not true, because you now know that was a  
5       check and it wasn't cash, correct?

6       A.     That's true.

7       Q.     Okay.  What's the next one?

8       A.     I don't have it in front of me.

9       Q.     Well, why don't you look for it for a minute.

10      A.     I'm not sure I have it with me, sir.

11      Q.     You said there were two or three.

12      A.     There were two or three.  This was done on the phone  
13      last Friday or -- yes, last Friday, and I believe it would  
14      be August the 2nd.

15      Q.     And you mean to say that after you found out that  
16      several of these checks were -- deposits were checks, you  
17      didn't bother to correct your chart, sir?

18      A.     The chart is making no allegations that this money  
19      was coming -- the chart is showing a pattern.  It was  
20      showing that, in fact, I come up with a pattern that shows  
21      the \$2500 is going back in regardless of the source.  It's  
22      an unusual pattern.

23             Then after January the next year, we don't see \$2500  
24      in any form, way, shape or manner going into the IOLTA.  
25      It's only raising the specter of a question about looking

Robertson - Cross

1       for patterns. It's not accusatory.

2       Q.     Sir, do you have something with you today that you  
3       could look at so you could tell us what other ones we could  
4       cross off of this supposed pattern?

5       A.     I'm checking, I'm checking. The dates are May 5 --

6       Q.     I can cross that one off?

7       A.     Yes, sir. (Pause) Sir, there appears to be 8-2.

8       Q.     We can cross that one off, too? Is that correct?

9       A.     The way the days correspond, that would be the  
10      closest one, yes, sir.

11      Q.     Now, sir, what was it that you actually received that  
12      causes those to be knocked out of your pattern? You  
13      received the actual checks, deposit items?

14      A.     On -- yes, sir, on Saturday. Mindy did a hand search  
15      just briefly. The way the system is set up at Home Savings  
16      is that certain types of deposits and the like, they have  
17      to go through the entire day's activities looking for check  
18      amounts. So it can be quite time consuming, so I suggested  
19      let's pick out three, and that's what we did.

20      Q.     Okay. And on all three of them you picked out, it  
21      just so happened they weren't cash; they were checks?

22      A.     That's correct.

23      Q.     And you didn't look at any others; you just had her  
24      pick out three, right?

25      A.     That's correct.

Robertson - Cross

1 Q. Now, again as I understand your hypothesis, sir, your  
2 hypothesis is that one of the things Allen Sinclair could  
3 have done with this unusual pattern of taking \$2500 cash  
4 out of every paycheck is he could have deposited it into  
5 his IOLTA account, because we see some unknown deposits,  
6 right?

7 A. That's correct.

8 Q. And then you list how many days after his last  
9 paycheck was cashed and he got \$2500 cash before there's a  
10 deposit, right?

11 A. That's correct.

12 Q. And then that would knock these three out, so we're  
13 down to one, two, three four, five, six, right?

14 A. Yes, sir.

15 Q. Let me ask about number six and number four. Isn't  
16 it true, sir, that Allen Sinclair received a paycheck on  
17 11-30, 1999, which was deposited on that date and got \$2500  
18 cash that day, and didn't make his next deposit until  
19 December 29th, 1999? Correct?

20 A. I don't see it on that chart, but I believe that  
21 sounds --

22 Q. Well, let me tell you what, let me show you what's  
23 marked Government's Exhibit 1-4.1. That is a check to  
24 Allen Sinclair in the amount of \$3,067.65, correct?

25 A. Yes, sir.

Robertson - Cross

1 Q. And it indicates at the top that that was deposited  
2 on 11-30-99, correct?

3 A. Yes, sir.

4 Q. And that only \$567.65 was deposited, leaving Allen  
5 Sinclair with \$2500 cash, correct?

6 A. Yes, sir.

7 Q. The next one shows a deposit of the paycheck on  
8 12-29-1999, correct?

9 A. Yes.

10 Q. And the difference between the deposit and the check  
11 shows he got \$2500 cash on that date, correct?

12 A. Yes.

13 Q. Now then, you have two checks, December 7th, do you  
14 see that one there?

15 A. Yes.

16 Q. \$2500. And you say that that deposit was made five  
17 days after Allen Sinclair got \$2500 cash, which would be,  
18 again, this check on 11-30-99, correct?

19 A. Yes.

20 Q. But then down at the bottom you also list a deposit  
21 on December 22, 1999, correct?

22 A. Yes.

23 Q. Coming out of the same check on 11-30-1999, correct?

24 A. I don't see the connection.

25 Q. Well, sir, there's one check where he got \$2500,

Robertson - Cross

1 correct?

2 A. Yes.

3 Q. And you said that he could have made this deposit on  
4 December 7, five days after he got that \$2500, correct?

5 A. Yes.

6 Q. And then on December 22nd, before he's received  
7 another paycheck, you're saying he could have made another  
8 deposit, and you put a question mark there because you  
9 can't answer the question where the \$2500 came from, right?

10 A. The December 22nd, the deposit went in, and there was  
11 no connection back to a particular check, that's correct.

12 Q. So you can't suggest that some of the cash came out  
13 of the check and went into that account because there's no  
14 check, right?

15 A. We're not saying that specifically, that the cash had  
16 to come out of a particular check.

17 Q. But that undoes your hypothesis, it shows how many  
18 days after a check is cashed before it's deposited, right?

19 A. I left a question mark and I don't know if the person  
20 would have other cash available from other sources or -- we  
21 haven't accounted by any means, of course, for all money.  
22 If, in fact, it is cash, all we're trying to do is prove  
23 our hypothesis or disprove our hypothesis.

24 Q. But that would tend to go against your hypothesis  
25 that he gets a check, converts it to \$2500 cash, and then a



Robertson - Cross

1        few days later deposits it into his IOLTA account, correct?

2        A.        All we're saying, there was a 2500 deposit regardless  
3        of the source.

4        Q.        That's not what you're saying. You're saying days  
5        after cash withdrawn from a government check. That's what  
6        you're saying.

7        A.        I'm saying a question mark after December 22. I  
8        don't know.

9        Q.        Down at the bottom you're saying these \$2500 deposits  
10       were made on average of four days after receiving the \$2500  
11       in cash, right?

12       A.        That's correct.

13       Q.        You're trying to suggest by saying that that he's  
14       getting a check, taking out \$2500 cash, and then he's  
15       taking that cash and putting it in his IOLTA account,  
16       right?

17       A.        I'm trying to say we have a hypothesis, and once  
18       we -- once we have all the data to either prove it or  
19       disprove it --

20       Q.        But the fact that you've got two deposits for one  
21       check tends to disprove your hypothesis, does it not?

22       A.        No, sir. It's \$2500. If, in fact, on Friday, when I  
23       made up this chart, if I thought that I wanted to make it  
24       look like we're trying to get, you know, the goods on  
25       Mr. Sinclair, I wouldn't have presented this chart.

Robertson - Cross

1           The purpose of the chart is to show, looking for  
2           patterns and eliminating or establishing the fact that they  
3           exist. This is actually a very forthright chart, because  
4           one third of it is not showing that it happens to be cash.  
5           But the purpose was to show that charts cannot be  
6           completely trusted. Having a chart that shows \$2500 was  
7           withdrawn, no way can you point it towards where that cash  
8           went.

9           Q.     So it's your testimony it was a very forthright chart  
10           not to show on the chart that the May, August, and October  
11           2500 deposits that you've listed there were actually checks  
12           that you'd established weren't cash?

13          A.     There was no intent to deceive anybody. The very  
14           fact that the case -- that the chart was presented is  
15           showing how the hypothesis works, not the results of it.

16          Q.     Let me ask you this, sir: When you looked at that  
17           IOLTA account, isn't it true that there were many other  
18           deposits, frequently multiple deposits on those same days  
19           that you didn't put on your chart?

20          A.     Such as? I'm sorry, sir, as far as amounts?

21          Q.     Such as -- here, we'll take a minute.

22                 I've marked these on the -- during the lunch break, I  
23           went ahead and marked these on all the monthly statements,  
24           and I'd like you to compare what's marked Government's  
25           Exhibit 1-50, which is a listing of all deposits on these

Robertson - Cross

1 different dates, and compare them and make sure they're  
2 accurate with the bank records. Could you do that please,  
3 sir?

4 THE COURT: What Government's Exhibit is  
5 this?

6 MR. MORFORD: 1-50, Your Honor.

7 MR. TRAFICANT: May I ask it be made a Joint  
8 Exhibit?

9 MR. MORFORD: The chart is our chart. The  
10 documents are Congressman Traficant's raw documents that he  
11 gave us.

12 MR. TRAFICANT: I ask it be a Joint Exhibit.

13 THE COURT: Well, is everything numbered?  
14 The exhibit I have is simply a chart. The raw documents  
15 need to be identified for the record with a number.

16 MR. MORFORD: The raw documents are HSL-F,  
17 and they were Congressman Traficant's exhibits.

18 THE COURT: Thank you.

19 A. Sir, may I ask or answer your question without going  
20 through everything as far as this list goes? I can maybe  
21 speed things along a little bit.

22 Not every deposit by any means was taken from the  
23 IOLTA account records and put into the chart. That was not  
24 the purpose. The purpose was to get the ones for \$2500.

25 Q. Well, I'd like you to go ahead then and look at that

Robertson - Cross

1 chart and make sure it's accurate, because then I want to  
2 ask you some questions about that chart.

3 A. Okay.

4 Q. They're all flagged. It shouldn't take you long,  
5 sir.

6 A. Yes, sir.

7 Q. And is that chart accurate?

8 A. Yes.

9 Q. Now then, sir, to go back to your chart, you showed  
10 what you called an unusual pattern?

11 A. Uh-huh.

12 Q. With some \$2500 checks being deposited, correct?

13 A. Yes, sir.

14 Q. And the truth of the matter is that there were a lot  
15 of checks deposited into that account, correct?

16 A. Yes.

17 Q. In fact, on February 12, the same day as the \$2500  
18 deposit, there was a deposit for \$1400, correct?

19 A. Yes.

20 Q. On 3-17, there wasn't just one, there were actually  
21 two \$2500 deposits; is that correct?

22 A. Yes.

23 Q. I'm sorry. Did you say yes?

24 A. Yes.

25 Q. Where are they on your forthright chart, sir? For

Robertson - Cross

1 March 17, 1999, you only show one. How come?

2 A. I'm not sure. Evidently the other March 17th -- is  
3 it March -- evidently the other March 17th wasn't put in  
4 the spreadsheet.

5 Q. And there wouldn't have been a corresponding check  
6 with a withdrawal of \$2500 cash for both of those March 17,  
7 1999 items, would there, sir?

8 A. Well, again, we're not making a direct correlation  
9 back to the withdrawals. We're trying to show the pattern  
10 of the \$2500. I wish I had the 2500.

11 Q. Then I'm going to ask again, sir, why does it say  
12 days after cash withdrawn from government check?

13 You are not trying to make the correlation?

14 A. I'm trying to make a pattern.

15 Q. And it doesn't fit the pattern to have two deposits  
16 of \$2500 on the same day when there's only one check, does  
17 it, sir? That doesn't fit the pattern you're trying to  
18 make, does it, sir?

19 A. If we were taking apples and apples, no. We're not.  
20 We're taking \$2500 deposits, period.

21 Q. Okay.

22 A. And accounting for them.

23 Q. Moving down, on May 5th, in addition to the \$2500  
24 deposit, you show there's also a \$1500 deposit, correct?

25 A. That's what your paper shows, yes, sir.

Robertson - Cross

1 Q. Well, sir, you just looked at the bank records and  
2 said it's accurate based on the deposits?

3 A. Yes. I thought you said I had it on my chart.

4 Q. Okay. September 7th, there's a deposit for \$2500,  
5 there's a deposit for \$518, and a deposit for \$7,000,  
6 correct?

7 A. That's correct.

8 Q. And on 10-13 -- actually on 10-13 there wasn't even a  
9 \$2500 deposit, was there, sir?

10 A. No, sir.

11 Q. There were three separate deposits that you added up  
12 to come to \$2500, correct?

13 A. That's correct.

14 Q. And you've now corrected yourself and said those were  
15 actually checks, correct?

16 A. That's correct. That was presented to the bank to  
17 research as three instruments.

18 Q. But again on your chart, you didn't list those out as  
19 three separate deposits. You listed them as though it was  
20 one \$2500 deposit, correct?

21 A. I'm going by the day and the amount of the deposit  
22 that happened to total \$2500.

23 Q. But you make it look like there's one \$2500 deposit  
24 there when actually there were three separate deposits on  
25 that day, correct?

Robertson - Cross

1 A. Totaling \$2500, yes, sir.

2 Q. On 12-7, in addition to the \$2500 deposit, you show  
3 there was a deposit for \$9,000, \$3500 and \$5,000, correct?

4 A. Yes.

5 Q. And on December 22nd, 1999, in addition to the \$2500,  
6 there was a deposit in the amount of \$11,500, correct?

7 A. That's correct.

8 Q. And on December 29, in addition to the \$2500 deposit,  
9 you showed there was a \$10,900 deposit, a \$4500 deposit, an  
10 \$8,000 deposit, a second \$2500 deposit, and a \$20,000  
11 deposit, correct?

12 A. Yes.

13 Q. And once again, if we look at your forthright chart,  
14 on December 29th, 1999, you only list one deposit in the  
15 amount of \$2500, correct?

16 A. That's correct.

17 Q. Why did you leave the other one off?

18 A. It must have been -- I thought one of them was 2550.  
19 I'm not sure. I'd have to look at that again, sir. Let me  
20 just take a quick look.

21 Q. It's there. Take a look.

22 A. Okay.

23 MR. TRAFICANT: What date are we talking  
24 about?

25 MR. MORFORD: December 29th.

Robertson - Cross

1 A. You're correct. There were two on the 29th. That  
2 would actually bring us up to 11.

3 Q. And it would also bring us to a point where there's  
4 two checks, two different checks for which you have to  
5 account for two \$2500 deposits, right?

6 A. That's correct.

7 Q. And you don't list either one of those on your chart.

8 A. That's correct.

9 Q. Now, you also said that you've already conceded that  
10 there's nothing particularly unusual about a lawyer making  
11 a \$2500 deposit into his IOLTA account, correct?

12 A. That's correct.

13 Q. And as you look at the real pattern now of multiple  
14 deposits into this IOLTA account, isn't it true that just  
15 off of these deposits alone, one could draw the conclusion  
16 that these are simply the deposits of client fees and  
17 insurance checks, and things like that?

18 A. I had no predisposition anyway. It was a matter of  
19 doing the search. In fact, because of the method of the  
20 searching, if a \$2500 check isn't recorded for a particular  
21 date, it's still going to be found in the search by Home  
22 Savings because they're looking for \$2500 checks.

23 Q. Except you only asked them to look for three and no  
24 more, correct?

25 A. On what date -- oh, yes, sir. They didn't have time



Robertson - Cross

1 to do any more.

2 Q. But what you've asked them to do is look for three,  
3 right?

4 A. That's all we had time for for me to be here today.

5 Q. And the three you looked for did turn out to be --

6 A. I'm sorry?

7 Q. I'm -- the three you did get were insurance checks,  
8 correct?

9 A. They were checks, yes, sir.

10 Q. Okay. And as to these other figures, what is your  
11 hypothesis on those?

12 A. They didn't connect at this point in time as far as  
13 any pattern goes, so again, because of time they weren't  
14 checked. You can divide any number of checks and the ones  
15 for like \$718 or \$10,000.

16 Q. Let me ask you this, sir. I want to show you some  
17 documents and ask you if you ever saw these documents or  
18 how they affect your hypothesis.

19 A. Okay. Okay, sir.

20 Q. For the record, these are Government's Exhibit 1-51.

21 The first is a check payable to Christa Castellucci  
22 and her attorney, R. Allen Sinclair?

23 A. Yes.

24 Q. In the amount of \$2500?

25 A. Yes.

Robertson - Cross

1 Q. On January 19th, 1999. Do you see that?

2 A. Yes.

3 Q. Is this a check that you looked at in putting  
4 together your hypothesis?

5 A. This was a check that I believe we provided to the  
6 government. I didn't go back and look at them. I got the  
7 information from Mindy off the telephone.

8 Q. You provided it to the government when?

9 A. I'm assuming as far as the, you know, any kind of a  
10 deposit goes.

11 Q. Why are you assuming that we were given a copy of  
12 this check, sir?

13 A. I'm assuming that you are given a copy of the check  
14 since it was part of the exhibit that you have all the  
15 checks.

16 Q. Okay. Let me show you the next one. That's one.  
17 Next is a check, loss date 10-21-98, \$2,500, full and final  
18 release of all claims, Alfonso Hackett and Allen Sinclair,  
19 Esquire.

20 A. Yes.

21 Q. Dated April 30th, 1999. \$2,500.

22 A. Yes, sir.

23 Q. Was this one of the checks that you looked at in  
24 putting together your hypothesis of this pattern?

25 A. As I said, I didn't look at the checks. I talked to

Robertson - Cross

1 Mindy, and she gave me the types of checks. I didn't know  
2 whether they were insurance checks or whatever. I've  
3 already stated we knew they were checks.

4 Q. Let me show you a third check. This one, settlement  
5 fund, claimant demand deposit account, \$2,500.

6 A. Yes.

7 Q. Pay to the order of Lou Ann Miller and R. Allen  
8 Sinclair. Do you see that?

9 A. Yes, sir.

10 Q. Date, 7-7-1999.

11 A. Yes.

12 Q. Amount \$2500.

13 A. Yes.

14 Q. Did you take that check into consideration when you  
15 put together your hypothesis?

16 A. This is more dates than we were able to get. We were  
17 told that they could only do three in a day. I'm just -- I  
18 don't know how we weren't able to get them.

19 Q. Here is a check from Nationwide Insurance payable to  
20 Kimberly Irving as parent and natural guardian for Jamar  
21 Irving and their Attorney Allen Sinclair, dated 8-6-99 in  
22 the amount of \$2500.

23 A. Yes.

24 Q. Was this a check you looked at?

25 A. I didn't look at the check. I didn't look at any of

Robertson - Cross

1       these checks.

2       Q.     Next, check payable to Rose Davies, final settlement  
3       of claim. Payable to Clarence and Viola Martin  
4       individually and as husband and wife and R. Allen Sinclair,  
5       their attorney, dated September 28, 1999, in the amount of  
6       \$800. Do you see that?

7       A.     Yes.

8       Q.     And then there's also a similar check in the amount  
9       of \$700?

10      A.     Yes.

11      Q.     And then there's also a check in the amount of  
12      \$1,000. Those are the ones you already testified to that  
13      you did see, correct?

14      A.     Yes.

15      Q.     The three of them totaled \$2500?

16      A.     That's the October 13th?

17      Q.     That's the one we crossed off your chart earlier,  
18      right?

19      A.     Yes.

20      Q.     Okay. Next we have a check from The Prudential  
21      Company, payable to Laurie Becket Peterson and R. Allen  
22      Sinclair in the amount of \$2500 on November 12th, 1999,  
23      correct?

24      A.     Yes.

25      Q.     Next we have a check, Ohio Mutual Insurance Group.

Robertson - Cross

1 The date is 7-6-99. Pay to the order of Danny Chance, and  
2 R. Allen Sinclair, his attorney, \$2500, full and final  
3 settlement of bodily injury.

4 A. Yes.

5 Q. You didn't look at this check in putting together  
6 your hypothesis, did you, sir?

7 A. I was not provided any of these, that's correct.

8 Q. Next there's a check from Allstate Insurance dated  
9 November 17th, 1999, in the amount of \$2,571, dated  
10 3-12-99, correct?

11 A. I see it on another date. I wasn't sure which one.  
12 11-17.

13 Q. 11-17-99. You're correct.

14 A. Yes.

15 Q. Next there's a check from Presque Isle Insurance,  
16 payable to Andrew Chambers and R. Allen Sinclair, his  
17 attorney, in the amount of \$2500, and the date is  
18 12-14-1999, correct?

19 A. Yes.

20 Q. Next we have a check payable to Michelle McAuley and  
21 her attorney, R. Allen Sinclair, \$2500, November  
22 10th -- I'm sorry, that's the date of loss.

23 MR. SMITH: The check date is right below the  
24 check number.

25 Q. There we go. 12-7-1999. Correct?

Robertson - Cross

1 A. I can't see it very well. I'm sure it is.

2 Q. 12-7-99. Can you see that? Here?

3 A. I can see the 12 and the 99. I couldn't see the 7 or  
4 17.

5 Q. Do you see that now?

6 A. I see it. I'm still not sure if it's 7 or 17.

7 Q. But it's December of '99?

8 A. Yes, sir. Yes, sir.

9 Q. Okay. And finally one last check to show  
10 you -- what's the amount of that check?

11 A. \$2500. Dated 4 -- it looks like 4-5-99.

12 Q. That's the date of the loss. It is dated December 9,  
13 1999; is that correct?

14 A. Yes, sir.

15 Q. So now you've had a chance to look at one, two,  
16 three, four, five, six, seven, eight, nine, ten, ten \$2500  
17 checks which are lawyer's settlement fee checks in the  
18 amount of \$2500 during 1999, correct?

19 A. That's correct.

20 Q. What does that do to your hypothesis that you  
21 presented to this jury that possibly there's some weird  
22 pattern going on here with Allen Sinclair making \$2500  
23 deposits to his IOLTA account?

24 A. Well, fortunately since you were able to get the  
25 documents, it resolved a hypothesis that had not been

Robertson - Cross

1       solved by us, because we didn't have the checks available.

2       Q.     So basically, based on these documents, what you  
3       testified to in your chart would pretty much be irrelevant,  
4       correct, in view of these checks?

5       A.     Yes, sir, as far as the -- I'm sorry -- the deposits  
6       and the dates following the withdrawals.

7       Q.     And one last thing. You said that the other thing  
8       that had caught your eye was that it was very unusual to  
9       you that as soon as Allen Sinclair stopped taking out  
10      \$2500, the checks stopped, correct, or the deposits  
11      stopped, correct?

12      A.     In the IOLTA for about a 20 or 22-month period ending  
13      in February of 2002.

14      Q.     Well, we've already -- you've already testified that  
15      Allen Sinclair got his last check and took his last \$2500  
16      cash withdrawal on December 29th, 1999, correct?

17      A.     Yes.

18      Q.     And isn't it true, sir, that -- again, this is, Your  
19      Honor, Defendant's Exhibit HSL-1-F, which is one of the  
20      documents that you had when you prepared all of this, sir?

21      A.     Yes.

22      Q.     Isn't it true that on February 10th, 2000,  
23      Mr. Sinclair did, in fact, make a deposit in the amount of  
24      \$2500?

25      A.     That would have been -- is that on the IOLTA, sir?

## Robertson - Redirect

1 Q. Yes.

2 A. Yes. That would have been at the very end there and  
3 been sometime in March or April that no more \$2500 deposits  
4 were uncovered through to February of '02.

5 Q. Sir, this is a \$2500 deposit two months after he'd  
6 stop taking the \$2500 out of his checks, correct?

7 A. I said at some point after he started taking the  
8 \$2500 out of his checks that the checks stopped. I never  
9 gave an exact date on when that happened. I'm saying that  
10 it ended in February of '02.

11 MR. MORFORD: May I have a moment, Your  
12 Honor?

13 THE COURT: Yes.

14 (Pause.)

15 MR. MORFORD: I have nothing further.

16 THE COURT: Thank you. Congressman?

17 REDIRECT EXAMINATION OF MICHAEL L. ROBERTSON

18 BY MR. TRAFICANT:

19 Q. The prosecutor talked a lot about patterns. He  
20 talked a lot about hypothesis. Now let's talk about the  
21 hypotheses of this case. In your investigation, was there  
22 any corroboration that any of these checks that were  
23 written were actually investigated by the IRS or any other  
24 body?

25 MR. MORFORD: Objection as to relevance.



Robertson - Redirect

1 THE COURT: Sustained.

2 Q. After February 10th of 2000, up until what point did  
3 you find not one \$2500 deposit?

4 A. It would have been either March or April of 2000. It  
5 was ending February of this year.

6 Q. So almost two years now, no \$2500. Now, as an agent  
7 of the Secret Service, are you familiar with check kiting,  
8 sir?

9 A. Yes.

10 Q. Wouldn't a prudent investigator assure that these  
11 accounts were, in fact, documented by a corroborative  
12 investigation?

13 MR. MORFORD: Objection.

14 THE COURT: Sustained.

15 Q. Well, how can you tell if, in fact, money is coming  
16 from one account, going to another, in hypotheses if you do  
17 not corroborate where the money ends up?

18 A. During the process of the hypotheses, many of them  
19 will not pan out because it's very difficult when you're  
20 monitoring multiple accounts.

21 Now, if it happened to be, for instance, in the  
22 Sinclair Vending account, there wasn't too much activity.  
23 In the other accounts, it was considerable activity. And  
24 to go through and plot day by day all of the various  
25 activities -- in other words, the hypothesis was based on a

Robertson - Redirect

1       presumption that perhaps somebody might actually redeposit  
2       the exact amount of money.

3               When you start extrapolating the possibilities of  
4       redepositing \$2500, if that would have been the case, you  
5       can go through multiples of many, many numbers, such as  
6       combining \$300 in cash with an X amount of legitimate  
7       deposit. It's a mind-boggling process. So we started with  
8       the simplest to look for that possibility.

9               The other possibilities are virtually endless even  
10       with a database. It takes a lot of time and a lot of  
11       searching to find that pattern of moving money around.

12       Q.     But would you agree that all of a sudden you have a  
13       pattern of \$2500, and then bingo, almost two years no  
14       \$2500?

15       A.     I say it's an unusual pattern that has yet to be  
16       explained, why, in fact, they would -- why, in fact, they  
17       would stop. Could it be a coincidence that for a ten-month  
18       time period, that they were the \$2500 --

19               THE COURT: Let's not get into hypotheticals.

20               THE WITNESS: Sorry, Your Honor.

21               MR. TRAFICANT: Excuse me. Your Honor, the  
22       whole questioning by the prosecution was on hypotheses.  
23       Now --

24               THE COURT: Congressman. Congressman.  
25       Excuse me. But the jury has to disregard this last part.

Robertson - Redirect

1 Q. Under your hypotheses, would you not verify the  
2 source of funds in an investigation?

3 MR. MORFORD: Objection.

4 THE COURT: He can answer that.

5 A. Yes.

6 Q. And what would be the purpose of attempting to verify  
7 the source of funds?

8 A. To corroborate any information that regards the  
9 distribution of those funds, to see if, in fact, the money  
10 is either coming or going as it is supposed to.

11 Q. Doesn't, in fact, now a hypothesis deal with motive?

12 A. Not particularly, but it certainly can, intent and  
13 motive and opportunity.

14 Q. Well, at some particular point we know that an  
15 attorney takes an oath. Isn't it a fact --

16 MR. MORFORD: Objection to the leading  
17 questions, Your Honor. He's now testifying.

18 THE COURT: Yes.

19 Q. Is an attorney who fails to report a crime committing  
20 a felony?

21 MR. MORFORD: Objection.

22 THE COURT: Excuse me. But you have to  
23 disregard this. This is not the witness to ask that  
24 question to.

25 Q. As a former treasury agent, would it be a crime --

Robertson - Redirect

1 MR. MORFORD: Objection.

2 THE COURT: Sustained.

3 Q. Would it certainly be grounds for further  
4 investigation, Mr. Robertson?

5 MR. MORFORD: Objection.

6 THE COURT: Sustained.

7 Q. Do you know if there were any IRS investigators  
8 involved in any of this money transaction?

9 A. Yes.

10 MR. MORFORD: Objection unless he has  
11 firsthand knowledge, Your Honor.

12 THE COURT: Do you? Do you have some  
13 firsthand knowledge of that?

14 THE WITNESS: Your Honor, I'm not sure what  
15 firsthand knowledge would include.

16 THE COURT: Well, ask him questions at the  
17 next break and find out whether or not there was --

18 Q. Are you familiar with the fact that there was a  
19 summary IRS agent who testified in this trial?

20 A. Yes.

21 Q. What does a summary agent do?

22 MR. MORFORD: I'd like to find out how he  
23 knows, Your Honor.

24 THE COURT: How do you know that?

25 THE WITNESS: From a news story.

Robertson - Redirect

1 THE COURT: Okay.

2 THE WITNESS: And from -- I know it was a  
3 news story and probably also from a television report.

4 THE COURT: You see, the jury was able to  
5 actually hear the testimony, and so we're going to just  
6 leave it to the jury who heard the testimony and not bring  
7 in media reports through this witness.

8 Q. Now, did you have knowledge after reviewing the  
9 documents submitted to you in this case as requested that  
10 there was supposedly money transferred between myself and  
11 Mr. Sinclair?

12 A. In the indictment? Yes.

13 Q. No. In any documents that were presented to you for  
14 your investigational purposes.

15 A. Yes, sir.

16 Q. And do you know if there was any action taken  
17 relative to the investigation to memorialize any  
18 admissions?

19 MR. MORFORD: Objection. This is all going  
20 to out-of-court hearsay.

21 THE COURT: Are you talking about his  
22 investigation?

23 MR. TRAFICANT: His investigation and the  
24 hypothesis of his investigation.

25 THE COURT: Of his investigation?

Robertson - Redirect

1 MR. TRAFICANT: Yes.

2 A. Would you rephrase that or ask me again, sir?

3 Q. Under the hypothesis that we've been discussing,  
4 finding only oral testimony backed up by checks and the  
5 pattern of checks, would not the hypothesis lead one to  
6 attempt to memorialize either an admission by the defendant  
7 or some corroborative evidence?

8 MR. MORFORD: Objection.

9 THE COURT: I object to this. I don't  
10 understand where we're going, Congressman. This is a  
11 witness you have on the stand and he's been able to testify  
12 to a good number of things.

13 Q. As a Secret Service agent, after having reviewed this  
14 case, would you have presented it to a United States  
15 Attorney?

16 MR. MORFORD: Objection.

17 THE COURT: Sustained.

18 Q. Now, the prosecutor was talking to you an awful lot  
19 about DiBlasio, is that correct?

20 A. There were some questions, yes, sir.

21 Q. Was DiBlasio a focus of the '98-'99 investigation?

22 A. No, sir.

23 THE COURT: Is that something you know of  
24 your own personal knowledge?

25 THE WITNESS: I know from review of documents

Robertson - Redirect

1 and --

2 THE COURT: Well, you see, we have evidence  
3 that's been presented in the case, so we'll rely on that.  
4 And the jury was here for that. You weren't involved in  
5 that investigation, right?

6 THE WITNESS: No, ma'am. No, Your Honor.

7 THE COURT: Thank you.

8 Q. Mr. Robertson, did you conduct an investigation  
9 relative to the activities of '98 and '99 concerning this  
10 case?

11 A. Yes, sir.

12 Q. And in reviewing that, did you look at the 1-24 FBI  
13 report 302 of Mr. Sinclair as being interviewed by the FBI?

14 A. Yes, sir.

15 Q. Did you have grand jury testimony of Mr. Sinclair?

16 A. Yes, sir.

17 Q. Were you aware that he had already been suspended for  
18 one year --

19 MR. MORFORD: Objection.

20 THE COURT: We went through this this  
21 morning.

22 Q. Are you familiar with the tactics of investigatory  
23 procedures?

24 A. Yes, sir.

25 Q. Now, on the hypotheses as a treasury agent, on a

Robertson - Redirect

1 money trail, what would be the most important thing that  
2 you would attempt to verify?

3 MR. MORFORD: Objection as to relevance, Your  
4 Honor. He can testify as to what he's done, but as to what  
5 somebody else should have done, it's not relevant.

6 THE COURT: That, and the fact that this  
7 witness is not in the position or you haven't shown him to  
8 be in a position to do any of those things, and the further  
9 fact it's not really relevant to this case.

10 Q. Did you do a thorough investigation in the 1998 and  
11 1999 activities regarding 11 Overhill Road?

12 A. I worked with what I had available, and it was  
13 strictly based on paper. There was no outside  
14 investigation conducted by me.

15 Q. Do you know if there was any other outside  
16 investigation involving this case at all?

17 A. No, sir.

18 Q. Now, is that an unusual pattern?

19 MR. MORFORD: Objection.

20 THE COURT: Well, was the answer no, I don't  
21 remember, or no, there was no other -- no outside  
22 investigation? Which one did you mean?

23 THE WITNESS: On my part, there was no  
24 outside investigation.

25 THE COURT: Okay. So you made no other



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1 outside investigation. Okay. Thank you.

2 Q. Do you have any knowledge that there was any outside  
3 investigation performed by the government regarding 11  
4 Overhill Road and KAS Enterprises?

5 MR. MORFORD: Objection.

6 THE COURT: The objection is sustained.

7 Q. As a former treasury agent, what do the summarizers  
8 do?

9 A. A summarizer?

10 Q. Yes.

11 A. Usually, for the lack of a better word, to analyze  
12 data that's been compiled and to make it in a usable,  
13 manageable format for consumption by whoever is interested  
14 in reading it or hearing about it.

15 Q. Would it be your testimony that they add and  
16 subtract?

17 MR. MORFORD: Objection.

18 THE COURT: Well, he just testified as to  
19 what it was.

20 Q. Would it be, in fact, that this person would simply  
21 add or subtract that which was given to him?

22 MR. MORFORD: Objection to what they do in  
23 other cases, Your Honor. It has no relevance to this case.

24 THE COURT: All right.

25 Q. We're talking about summaries. Are you familiar with

Robertson - Redirect

1 summarist agents?

2 THE COURT: There are all kinds of things  
3 that can be summarized, Congressman. Let's talk about his  
4 expertise.

5 Q. To your expertise, did the treasury agents have a  
6 summarist specialist?

7 MR. MORFORD: Objection.

8 MR. TRAFICANT: I object to their objection.

9 THE COURT: Just rephrase what you're looking  
10 for. Remembering who you have on the stand here.

11 Q. As a treasury agent, what was the sole purpose of  
12 someone who did a summary chart in any of your cases that  
13 you had knowledge of?

14 MR. MORFORD: Objection to what relevance  
15 that has to this case, Your Honor.

16 THE COURT: I don't think we had a treasury  
17 agent, so to speak here. I don't know really what you're  
18 asking him to describe. If you want to know what he did in  
19 his cases, that's not going to help us in this case,  
20 Congressman.

21 Q. Mr. Robertson, is this a money trial?

22 A. Yes, sir.

23 Q. Have you seen through any documents you received any  
24 money investigation other than charts?

25 MR. MORFORD: Objection.

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1 THE COURT: Sustained.

2 Q. As a result of having received documents subject to  
3 subpoena, subject from the bank, and grand jury testimony,  
4 have you been able to see or identify any outside  
5 corroboration of witness testimony?

6 MR. MORFORD: Objection without laying a  
7 foundation that he's watched all the witnesses and looked  
8 at all the documents.

9 THE COURT: Right.

10 Q. Have you read the testimony of Allen Sinclair?

11 A. Yes.

12 Q. And you are familiar, there was a summary agent that  
13 was brought in by the government?

14 A. Yes.

15 Q. Through all the documents that you received, was  
16 there any other money investigator that offered evidence in  
17 this case?

18 MR. MORFORD: Objection, Your Honor. This is  
19 all argument that can be made to the jury, but not through  
20 this witness.

21 THE COURT: Yes. You can talk to the jury  
22 about that yourself in closing argument as long as you're  
23 talking about the evidence in the case, but unless this  
24 man -- well, it wouldn't even work if he'd been here every  
25 day and heard all the testimony because he's not on the

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1 jury and he hasn't seen the evidence.

2 Q. Now, you were asked by the prosecutor if you wanted  
3 to give me a hand. Is that correct?

4 A. Something to that effect, yes, sir.

5 Q. What was it that caught your attention that wanted  
6 you to look into this matter?

7 A. The fact that the evidence appeared to be testimony  
8 and not corroborative physical evidence.

9 MR. MORFORD: Objection to his opinion on  
10 that, Your Honor. Again, this goes to argument. We'll  
11 have a chance to do that.

12 THE COURT: Right.

13 MR. TRAFICANT: I object to that.

14 THE COURT: Well, I know, but you were basing  
15 that on what at the time that you made that decision? What  
16 were you basing that decision on?

17 THE WITNESS: On information that I had heard  
18 from other sources, such as Associated Press, the Internet.

19 THE COURT: Okay. So you've gone to outside  
20 sources to decide that.

21 THE WITNESS: Yes.

22 THE COURT: All right. The objection is  
23 sustained.

24 Q. After you had heard of such matters, did you inquire  
25 and request specific documents to pursue your concerns?

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1 MR. MORFORD: Objection. This is what he  
2 went over on his direct exam. This is just reploting the  
3 same fields.

4 THE COURT: Sustained.

5 Q. Why did you use the term "veracity"?

6 A. In relation to a witness or a source.

7 Q. What is a source?

8 A. A source is also known as an informant.

9 Q. What are they known as on the street?

10 MR. MORFORD: Objection.

11 THE COURT: Well, you can answer if you know  
12 some of those words people use on the street.

13 A. There are numerous terms. Probably the most popular  
14 would be a snitch.

15 Q. Do you know from 302s if Mr. Sinclair was a source in  
16 this trial?

17 MR. MORFORD: Objection. Again, Your Honor,  
18 this goes to hearsay, his opinion, relevance.

19 THE COURT: The objection is sustained.

20 Q. How much are you being paid for your assistance?

21 A. \$1.

22 Q. Would not that in itself express your concern  
23 relative to physical evidence?

24 THE COURT: That might be something you want  
25 to discuss in closing argument, Congressman.

## Robertson - Redirect

1 Q. Let me ask you this: In all of the investigation  
2 that you did regarding your requests, did you find any  
3 corroboration of physical evidence?

4 A. No.

5 Q. Do you find that an unusual pattern?

6 MR. MORFORD: Objection, because he said he  
7 had a short time to work. This is irrelevant --

8 THE COURT: You'll be able to cross-examine  
9 him. Go ahead.

10 MR. TRAFICANT: I object to these  
11 objectionable objectors.

12 THE COURT: Thank you, Congressman. It's mid  
13 afternoon. Let's move along. You have more questions of  
14 him. Would you ask the questions?

15 MR. TRAFICANT: Would the court reporter  
16 please repeat my question that has been objected to  
17 repeatedly?

18 (Record read.)

19 A. I find it inadequate.

20 Q. What was inadequate?

21 A. Relying --

22 MR. MORFORD: Objection to his opinion, Your  
23 Honor.

24 THE COURT: No.

25 Q. What was the --

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1           THE COURT: This is not the proper evidence  
2           to put in front of this jury. The jury has to decide the  
3           quantity and quality of the evidence as adduced in this  
4           case. So far we're off on some kind of a side trip with  
5           this gentleman's opinion based on news reports and TV and  
6           other things, in an earnest desire to assist.

7           Now, let's move on and get the information that he  
8           has that is valuable to the jury because it is evidentiary.

9           Q. Mr. Robertson, were you asked a series of questions  
10          about hypothetical situations in this case by the  
11          prosecutor?

12          A. Yes.

13          Q. Did he not seek a hypothesis that was not objected to  
14          by the defendant?

15          A. I don't recall any objections by the defendant.

16          Q. Now, in pursuing your hypothesis, do you not look at  
17          motive --

18                 MR. MORFORD: Your Honor, can I ask what  
19          hypothesis he's talking about?

20                 THE COURT: Yes. I don't understand which  
21          hypothesis either of you are talking about.

22                 Which hypothesis are you talking about, sir?

23                 THE WITNESS: I'm using the term literally,  
24          actually to form the basis for a theory or an approach.

25                 THE COURT: In a scientific way?

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1 THE WITNESS: Yes. For any investigation.

2 THE COURT: Okay.

3 THE WITNESS: For any case.

4 Q. Did you find a hypothesis that supported a scientific  
5 base to develop a conclusion?

6 A. Sir, did I find one that was suitable or did I find  
7 one that had been executed?

8 Q. Did you find one suitable?

9 A. For my use?

10 Q. Yes.

11 A. To the extent possible. There wasn't a lot of time  
12 spent on it because we weren't going to have time to follow  
13 through on an external extension of an investigation other  
14 than the -- mainly the paper trail.

15 Q. But in the examination that you made, were you  
16 satisfied with the execution of, in fact, the investigation  
17 that was conducted?

18 MR. MORFORD: Objection.

19 THE COURT: Well, he can answer if he's  
20 satisfied.

21 MR. MORFORD: His opinion of this  
22 investigation?

23 THE COURT: Let's let him answer. Then we  
24 can move along.

25 Q. Were you satisfied with the execution of the



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1 investigation that was conducted?

2 A. Based on my --

3 THE COURT: By you, right? The investigation  
4 he conducted. Is that what you're talking about?

5 MR. MORFORD: He's talking about ours.

6 THE COURT: Congressman, which investigation?

7 Q. Based on the investigation that you conducted, did  
8 you find it a suitable investigation that was conducted in  
9 this case?

10 THE COURT: Oh. No. We've already ruled he  
11 can't testify about that because he doesn't have a basis on  
12 which to testify.

13 Q. Was there a difference of opinion as to the amounts  
14 of money owed between Mr. DiBlasio and Mr. Sinclair?

15 MR. MORFORD: Objection.

16 THE COURT: Sustained.

17 Q. Do you know if there were any audits performed in  
18 this investigation?

19 MR. MORFORD: Objection.

20 THE COURT: Sustained.

21 Q. As a treasury agent, was Kimberly Ann Sinclair my  
22 employee from your experience?

23 MR. MORFORD: Objection. What does that have  
24 to do with him being a treasury agent?

25 THE COURT: Sustained.

## Robertson - Redirect

1 Q. Was Allen Sinclair my employee?

2 MR. MORFORD: Objection unless --

3 THE COURT: Sustained.

4 Q. Must an individual report the commission of a crime?

5 MR. MORFORD: Objection.

6 THE COURT: Sustained. We've been over that  
7 quite a few times.

8 Q. What graphic evidence in your examination did the  
9 government produce?

10 MR. MORFORD: Objection.

11 THE COURT: Sustained.

12 Q. Did you look at all elements of the Sinclair account?

13 MR. MORFORD: Objection.

14 THE COURT: Sustained.

15 Q. Do you find that your questioning is being sustained  
16 quite often?

17 THE COURT: It is not up to him,  
18 Congressman --

19 Q. Let me ask you this: No matter where the money is  
20 coming from -- the horse is running the mile, okay, in 120.  
21 Then all of a sudden ten months later he runs the mile in 2  
22 minutes. Is that an unusual pattern?

23 THE COURT: You know what? You've just seen  
24 a part of closing argument long before we have all the  
25 evidence on in the case. Congressman, let's move along.

## Robertson - Redirect

1 Q. Did you look for any evidence when you examined the  
2 1998-99 accounts of Sinclair?

3 A. What sort of evidence?

4 Q. Physical evidence.

5 A. I wasn't in a position to find physical evidence  
6 other than paper trail, which doesn't really suffice to  
7 corroborate what you're seeing on the paper.

8 Q. So you saw a paper trail; is that correct?

9 A. I saw possible paper trails.

10 Q. On five accounts?

11 A. Mainly on four, but yes. There was an anomaly or  
12 unusual deposits on the vending account, but it was  
13 minimal.

14 Q. So after a certain period of time it seemed that  
15 clients just didn't seem to pay \$2500 settlements. Is that  
16 your testimony?

17 MR. MORFORD: Objection.

18 THE COURT: That's a statement. That's a  
19 statement. That's not a question.

20 MR. TRAFICANT: I asked if that was his  
21 testimony.

22 MR. MORFORD: It's also been asked and  
23 answered. It's leading.

24 THE COURT: Congressman, move along.

25 Q. As a treasury agent, isn't it a fact that an attorney

Robertson - Redirect

1 is the toughest to investigate?

2 MR. MORFORD: Objection as to relevance to  
3 this case.

4 THE COURT: Sustained.

5 Q. Now, after the last \$2500 deposit, how many months  
6 went by when there were no more \$2500 deposits?

7 THE COURT: We've been over and over that.

8 Q. Under the theory of a hypothesis, would you not  
9 delegate any and all deposits that would add up to \$2500?

10 A. Depending on time and resources, you would probably  
11 want to validate deposits over \$2500, also.

12 Q. On the January 24th 302, isn't it a fact that  
13 Mr. Sinclair failed to comment --

14 MR. MORFORD: Objection. This is asked and  
15 answered in his direct.

16 THE COURT: We went through it in the first  
17 round of direct.

18 Q. Was he quoted as having said --

19 THE COURT: Congressman, Congressman. Let's  
20 move to something new here.

21 Q. What is the basis for forming a hypothesis in an  
22 investigation?

23 MR. MORFORD: Objection. This has been asked  
24 and answered.

25 THE COURT: Sustained.

Robertson - Redirect

1 Q. Don't you find the objections to be a pain in the  
2 assets?

3 A. Do you want to rephrase that?

4 Q. As an investigator, was this a properly corroborated  
5 investigation?

6 THE COURT: The objection is sustained.

7 Q. When was your last year, did you say, of working as a  
8 treasury agent?

9 A. I believe it was the end of 1987 or early 1988.

10 Q. Did you instruct at any schools or seminars?

11 A. I was an instructor at the Secret Service Training  
12 Academy for two years.

13 Q. And where was that located?

14 A. In Washington, D.C.

15 Q. Did they highlight any specific cases of fraud and  
16 money handling?

17 A. It was a basic agent training course, and they would  
18 cover all the requirements needed for both, you know,  
19 conducting criminal investigations and the other  
20 requirements for the agents to fulfill their roles as  
21 agents, including, of course, investigation.

22 Q. Is that when they asked to recruit you into the  
23 criminal division?

24 A. This is several years before that.

25 Q. Now, when you talk about the wiretaps, were you asked

## Robertson - Redirect

1 to ever share your methodologies at these seminars relative  
2 to wiretaps?

3 A. Both wiretaps and investigative techniques. The  
4 Secret Service was getting into these new types of frauds  
5 in the -- by this time in the early '80s, as was the FBI  
6 getting involved in these types of crimes, so there had to  
7 be some adjustment, some adaptation to techniques.

8 Q. Did treasury agents work with FBI agents?

9 A. Yes.

10 Q. Was it a common practice to attempt to memorialize  
11 the admissions of a particular target?

12 THE COURT: Are we talking about 22 years  
13 ago?

14 MR. TRAFICANT: We're talking about  
15 investigations, Your Honor.

16 THE COURT: Okay. But you had him back  
17 22-some years ago when he was training Secret Service  
18 agents. Let's keep the time up front so we know what we're  
19 talking about.

20 Q. Let's come up to the present. Do you now serve on  
21 the other side of the aisle?

22 A. In the defense side?

23 Q. Yes.

24 A. On occasion.

25 Q. And you also serve on the government side?

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1 A. Yes.

2 Q. So your skills are utilized by both sides of the  
3 government?

4 A. I just finished an assignment overseeing -- I was  
5 serving as the compliance officer appointed by the  
6 bankruptcy court in St. Louis to oversee a telemarketing,  
7 fraudulent telemarketing operation for about three years,  
8 to make sure they complied with the government  
9 requirements.

10 Q. And has the process of investigatory procedures,  
11 including wiretaps, have they changed over the last 17  
12 years or have they become more important?

13 A. Technology has changed everything, of course, and it  
14 has to some extent made electronic eavesdropping, Title  
15 IIIs, legitimate access to, you know, other people's  
16 conversations, and videos, has been easier, and  
17 investigative styles, of course, are tweaked as progress is  
18 made in the technology fields.

19 Q. Would you agree then that the electronic surveillance  
20 and technology is greater today than ever?

21 MR. MORFORD: Objection. Leading --

22 THE COURT: Sustained.

23 MR. MORFORD: Relevance.

24 THE COURT: Sustained.

25 Q. Is it your impression that today electronic

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1 surveillance is so prevalent that it is utilized in nearly  
2 all cases to corroborate evidence?

3 MR. MORFORD: Objection.

4 THE COURT: Sustained.

5 Q. Now, in your own investigation, and in any  
6 investigation you conducted, when you questioned the  
7 veracity of a witness --

8 MR. MORFORD: Objection. It has no relevance  
9 to this case, Your Honor.

10 THE COURT: Sustained.

11 Q. Did you ever have any question of the veracity of a  
12 witness in this case?

13 THE COURT: Congressman, the jury has the  
14 responsibility of deciding that issue.

15 Q. Did you do any study of my income, cash income?

16 A. Only through the documentation provided by the  
17 government, which I am sure was accurate and complete.

18 Q. So you're not familiar with the source of any of  
19 where that cash came from either, are you?

20 MR. MORFORD: What cash?

21 THE COURT: What cash?

22 Q. That the government has, in fact, stated through  
23 their Government Exhibits.

24 THE COURT: Are you talking about this one  
25 exhibit?



## Robertson - Redirect

1 A. If we are referring to Exhibit 1-27-1 --

2 Q. Yes.

3 A. Reflecting the cash deposits of James A. Traficant.

4 Q. They said it was \$26,600. Is that the one?

5 A. Yes, sir.

6 Q. I'm trying to find it. Can I have your -- may I  
7 borrow yours, gentlemen?

8 MR. SMITH: It's up there.

9 Q. I'll put this on the screen for you. What is the  
10 first date you see?

11 A. 19 September 1995.

12 Q. Why did we start in '95?

13 A. I didn't make the chart. I don't know, sir.

14 Q. So you considered the year '95 to be a part of their  
15 exhibit?

16 THE COURT: It is on their exhibit, sir.  
17 This witness is not in a position to decide that.

18 MR. TRAFICANT: He can see.

19 THE COURT: It's a Government Exhibit.

20 MR. TRAFICANT: He's already been  
21 cross-examined, and I'm attempting to do the same.

22 Q. Is there a 1995 deposit listed?

23 A. Yes, sir.

24 Q. Would you have any knowledge if there were any other  
25 '95 deposits made?

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1 A. I didn't do any independent verification on any of  
2 these documents other than what I was provided.

3 Q. Now, does it not end in November of '99?

4 A. Yes, sir.

5 Q. How many years are we talking about here?

6 A. Four years and three months, thereabouts.

7 Q. 51 months?

8 A. Yes.

9 Q. Now, if it was a thousand dollars a month, how much  
10 would it be?

11 A. \$51,000.

12 Q. How much is it?

13 A. A little to the right, please. 26,600.

14 Q. Now, is that unusual?

15 A. I'm not sure what you mean.

16 Q. Doesn't that average out to less than \$500 a month?

17 A. Taking the full time of 51 months, yes, sir, it does.

18 Q. Now, do you pay taxes, sir?

19 A. Yes, sir.

20 Q. And do they come up twice a year?

21 A. Yes, sir.

22 Q. And are property taxes something you must pay?

23 A. Yes, sir.

24 Q. So in a period of four years, there would be at least  
25 eight cycles of property taxes, would there not?

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1 THE COURT: For him?

2 MR. TRAFICANT: For anyone.

3 THE COURT: Well --

4 MR. MORFORD: Objection. For a lot of  
5 reasons, including he's testifying again.

6 Q. Do you pay property taxes?

7 THE COURT: But Congressman, whether or not  
8 he pays property taxes is not an issue in this case.

9 MR. TRAFICANT: I think it deals with  
10 hypothesis, and I'd like to pursue this.

11 THE COURT: I'm sorry, but you won't be able  
12 to pursue that. His tax matters are not germane to what  
13 we're doing here.

14 What is written on the bottom here, Congressman?

15 Q. Let me ask you this: Does this \$26,600 over 51  
16 months differ very much from the 24 months of \$485?

17 A. If we're talking about the time frame, not the  
18 entries, but the time frame from the beginning of the first  
19 entry in '95 through November of '99, you're talking about  
20 fairly equal -- a fairly equal time frame, and very close  
21 to the same dollar amount.

22 Q. Is \$485 a month to a treasury agent an unusual  
23 pattern of cash deposits?

24 MR. MORFORD: Objection.

25 THE COURT: Sustained.

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1 Q. Did it strike your concern that someone would need  
2 five separate accounts?

3 MR. MORFORD: Objection.

4 THE COURT: Sustained.

5 Congressman, it is 3:30. We need to give the jury a  
6 break sometime this afternoon. Is this a good time?

7 MR. TRAFICANT: I second that. I still have  
8 more questions, and I'd be glad to take the break. Thank  
9 you.

10 THE COURT: Okay. 20 minutes.

11 THE CLERK: All rise for the jury.

12 (Jury out at 3:35 p.m.)

13 (Recess had.)

14 (Jury in at 3:55 p.m.)

15 THE COURT: You are still under oath.

16 THE WITNESS: Yes, Your Honor.

17 THE COURT: Thank you.

18 BY MR. TRAFICANT:

19 Q. Do you remember when the government, the prosecutor  
20 questioned you about this pro bono examination?

21 A. Yes, sir.

22 Q. What made you take this case on as a pro bono  
23 assignment?

24 A. When I realized there was no physical evidence being  
25 presented against you.

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1 MR. MORFORD: Objection.

2 THE COURT: All right. Unfortunately, sir,  
3 you haven't been here for -- we are in the eighth, ninth  
4 week.

5 A JUROR: Tenth.

6 THE COURT: So this, again, is based on what  
7 you read in the papers or television?

8 THE WITNESS: Yes, what I've heard.

9 THE COURT: Thank you.

10 Q. Are you familiar if this is a criminal trial?

11 A. Yes.

12 Q. Are you familiar with the burden of proof?

13 A. Yes, sir.

14 MR. MORFORD: Objection.

15 THE COURT: And the Court instructs on the  
16 burden of proof, not the witness.

17 Q. Are you familiar with the differences between a  
18 misdemeanor and a felony?

19 MR. MORFORD: Objection.

20 THE COURT: The objection is sustained.

21 Q. Did you get a chance to review the grand jury -- the  
22 summary analysis that was given by the IRS agent in this  
23 case?

24 A. No, sir.

25 Q. What have you seen from the government other than

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1 paper documents that were subject to summary?

2 MR. MORFORD: Objection.

3 THE COURT: Sustained.

4 Q. Now, you say you dealt with credit card fraud, is  
5 that right?

6 A. Did I investigate those?

7 Q. Yes.

8 A. Yes, sir.

9 Q. And you are familiar with the many different ways to  
10 launder and manipulate money?

11 A. Several of them, yes, sir.

12 Q. Would it not be a prudent question to ask if this  
13 case would require a thorough analysis of that type of  
14 investigation?

15 MR. MORFORD: Objection.

16 THE COURT: This is not a credit card fraud  
17 case.

18 Q. Does Sinclair Vending do a lot of business?

19 MR. MORFORD: Objection, unless he has  
20 firsthand knowledge.

21 THE COURT: Maybe you do.

22 THE WITNESS: From review of bank records.

23 THE COURT: Okay. He has his review of bank  
24 records. He can testify to that.

25 Q. Does Sinclair Vending do a lot of business?

## Robertson - Redirect

1 A. Relatively speaking, no.

2 Q. Do you derive checks from vending businesses or do  
3 you derive cash?

4 A. The vast majority of income would be from the  
5 machines, which would be cash and coin.

6 MR. TRAFICANT: No further questions.

7 MR. MORFORD: Nothing, Your Honor.

8 THE COURT: Thank you, sir. You can step  
9 down.

10 THE WITNESS: Thank you, Your Honor.

11 THE COURT: Mind the stairs. They're not  
12 normal; they're curved.

13 MR. TRAFICANT: I only have one more witness.  
14 Robert Barlow I'm calling.

15 THE COURT: Okay. Who are you calling, sir?

16 MR. TRAFICANT: Robert Barlow. Ernestine?

17 MR. MORFORD: He already testified and he's  
18 already been tendered.

19 THE COURT: We have had Barlow.

20 MR. TRAFICANT: It's a different matter.

21 THE COURT: When did this matter come to your  
22 attention?

23 MR. TRAFICANT: No. I had him retrieve some  
24 public documents for me that I want to introduce into  
25 evidence, and I have the right to, in fact, call this

1 witness and recall any of my witnesses.

2 MR. MORFORD: Not true.

3 THE COURT: Well, if something new has  
4 happened --

5 MR. TRAFICANT: It is new.

6 THE COURT: You might have a right, but if  
7 he's just going to come in as a custodian of records, you  
8 have to establish he has something to do with them.

9 MR. TRAFICANT: I am going to do that.

10 MR. MORFORD: Your Honor, if these are public  
11 records, they can be certified. If they're certified,  
12 we'll stipulate to them. There is no need for a witness to  
13 testify about them.

14 MR. TRAFICANT: This is my last witness. I  
15 want him to come in and testify on this document.

16 THE COURT: Well, he would need to have  
17 some -- I mean, first of all, certification is an easy  
18 process in order to get public documents before the Court.

19 Let the other side look at these documents.

20 MR. TRAFICANT: I'm letting him look at them.

21 THE COURT: Maybe they'll stipulate to them  
22 if they were properly certified.

23 MR. TRAFICANT: I don't want them stipulated  
24 to.

25 THE COURT: This witness is in no better



1 position to do this than anyone else. You've already  
2 called him in the case, and his testimony has been  
3 concluded.

4 Relax a minute and let him see what they are, and I'd  
5 like to see what they are, the documents.

6 MR. TRAFICANT: I'll let you see my copy.

7 THE COURT: That would be fine.

8 MR. TRAFICANT: The official documents that I  
9 want placed on the record. I asked this fellow to obtain  
10 it through the proper sources.

11 THE COURT: Okay.

12 MR. MORFORD: Your Honor, rather than waste  
13 the Court and the jury's time, we'll stipulate to the  
14 authenticity of this document. It's certified.

15 THE COURT: It appears to be certified, sir.

16 MR. TRAFICANT: I had it certified and I want  
17 it testified to. There's elements to it that I want  
18 brought out that are different, in fact, than what has been  
19 testified to here in this courtroom, and I call Bob Barlow.  
20 Ernestine?

21 MR. MORFORD: Your Honor, can we discuss this  
22 outside the jury's presence? Because the rule is unless  
23 there's something new --

24 THE COURT: We're going to discuss it.  
25 Congressman?

1                   MR. TRAFICANT: Would you get Bob Barlow for  
2 me?

3                   THE COURT: I'll just release the jury for  
4 the day, and we'll discuss it after they're gone so that we  
5 have an opportunity to find out why it would be appropriate  
6 for this particular gentleman to testify to records that  
7 are certified.

8                   In any event, the records can come in; is that  
9 correct?

10                  MR. MORFORD: Yes.

11                  THE COURT: So there's no issue about the  
12 records coming in.

13                  Ladies and Gentlemen, we're going to release you for  
14 the day and have you back at 9:00 tomorrow morning, and  
15 remember all your admonitions. Don't listen to anything,  
16 read anything, or otherwise have anybody talk to you or get  
17 you involved in this case. Just enjoy the beautiful day  
18 we're having. Have a nice trip.

19                  THE CLERK: All rise for the jury.

20                  THE COURT: We'll wait for the jury to leave.

21                  (Jury out at 4:03 p.m.).

22                  MR. TRAFICANT: Are you going to do this  
23 outside the presence of the jury, have a witness take the  
24 stand again for me?

25                  THE COURT: Not necessarily. What we're

1       going to do -- let the jury go through.

2                   THE CLERK: All rise for the jury

3                   (Pause.)

4                   THE COURT: I don't want to handle this kind  
5       of objection in front of jury because it taints the process  
6       potentially for them, and so since it is almost time for  
7       them to go home anyway, I thought it would be best to let  
8       them go. And now you can discuss what it is, the reason  
9       why you wish to recall this witness who you had on the  
10      stand.

11                  MR. TRAFICANT: I had him pick up a mortgage  
12      for \$276,000 for Mr. Sinclair, and I thought it was  
13      completely appropriate the jury should hear it, and I  
14      object to the fact that you completely deny me the  
15      opportunity to examine witnesses.

16                  THE COURT: All we have to know is why you  
17      need this particular witness --

18                  MR. TRAFICANT: Because he picked up the  
19      documents for me, and I want it admitted into evidence.

20                  The mortgage is \$276,000.

21                  THE COURT: Well, the documents can certainly  
22      go into evidence. There's no question about that. They're  
23      certified public records.

24                  MR. TRAFICANT: But the jury does not get a  
25      chance to hear them and I think you are giving the

1 prosecutor an opportunity to let the jury hear his side,  
2 but not necessarily hear my side, and I object for the  
3 record.

4 But in any regard --

5 THE COURT: Well, wait, wait, Congressman.  
6 There may be something about this particular transaction  
7 that you can bring a witness who was involved in the  
8 transaction in before the Court, and maybe this gentleman  
9 is the right one. We just don't know that. And having  
10 this argument in front of the jury is not proper.

11 MR. TRAFICANT: Well, the bottom line, let me  
12 respond --

13 THE COURT: Who is involved in the  
14 transaction? I don't know who it is.

15 MR. TRAFICANT: I simply had him go to the  
16 Mahoning County Recorder's Office and have authenticated  
17 the mortgage and supporting documentation of a mortgage of  
18 \$276,000 for Mr. Sinclair.

19 THE COURT: Well, then call Mr. Sinclair. He  
20 can talk about it.

21 MR. TRAFICANT: I think I can authenticate  
22 this through my witness. Why do I have to call Sinclair?  
23 They can call Sinclair.

24 THE COURT: It doesn't need to be  
25 authenticated. It is a public record. It is

1       authenticated.

2                   MR. MORFORD: Your Honor, he already  
3       questioned Mr. Sinclair about the fact that he bought a  
4       house. He questioned him about the price; he questioned  
5       him about the mortgage. He now wants to put the document  
6       in. We said we have no objection. The document does come  
7       in.

8                   And this witness knows nothing about this document  
9       other than the fact --

10                  THE COURT: The problem is really matching  
11       the witness to what it is you want him to testify to.

12                  MR. TRAFICANT: Hear me. He testified he  
13       bought a house for \$275,000.

14                  I have a document that says he has a mortgage for  
15       \$276,000. I don't know anybody that gets a hundred percent  
16       mortgage.

17                  THE COURT: Bring him in here if you want him  
18       to testify to it.

19                  MR. TRAFICANT: That's their witness. I've  
20       got a man here just to bring in the document. And I wanted  
21       the jury to hear the document.

22                  THE COURT: The document is here. The  
23       document is in evidence. You don't have to worry about the  
24       document.

25                  MR. MORFORD: And his testimony was in answer

1 to Congressman Traficant's questions, and he's already gone  
2 over that. He had that opportunity. He can argue it in  
3 closing.

4 MR. TRAFICANT: In any regards then, I assume  
5 that the prosecutor will then not object and will stipulate  
6 to the admission in evidence of Defense Exhibit B-O-B, in  
7 its entirety, which on page 2 states, line D, February  
8 11th, 2002, the note states, "The borrower owes lender  
9 \$276,000."

10 THE COURT: That's the mortgage.

11 MR. TRAFICANT: Yes.

12 MR. MORFORD: Yes, we will stipulate to that.

13 MR. TRAFICANT: Is that admitted into  
14 evidence? I have more, Your Honor.

15 THE COURT: This is a good time to do  
16 evidence. Okay. That will be admitted.

17 MR. TRAFICANT: Number one, the corporate  
18 resolution that designated the first one, it was signed  
19 simply by Raymond A. Sinclair, dated November 30, 1998, a  
20 corporate resolution designating, known as Defense Exhibit  
21 HSL-10-B --

22 THE COURT: Okay. You'll just show each one  
23 of these to the other side. Then we'll be able to see what  
24 it is that their concerns may be.

25 MR. MORFORD: I thought that was 1-D-B.

1 MR. TRAFICANT: Whatever you want to make it.

2 MR. MORFORD: I don't want to make it. It's  
3 your exhibit. I'm just asking you.

4 MR. TRAFICANT: We'll make it 10-B.

5 MR. MORFORD: But I don't think that's how it  
6 was referred to.

7 MR. TRAFICANT: Then we'll make it 1-D-B.

8 THE COURT: Okay.

9 MR. TRAFICANT: The second one is a corporate  
10 resolution.

11 THE COURT: We have it as 10-B. So let's try  
12 to get this straight.

13 MR. TRAFICANT: Let's go 10-B.

14 THE COURT: 10-B. Everybody agree?

15 MR. TRAFICANT: That has a ring to it.

16 THE COURT: 10-B.

17 MR. TRAFICANT: The next --

18 THE COURT: Sounds like home room.

19 MR. TRAFICANT: The second one is a corporate  
20 resolution designating officers authorized to sign for a  
21 corporation known as KAS Enterprises. This one was  
22 December 15. It carried the signatures of both R. Allen  
23 Sinclair and Kimberly Ann Sinclair. That would be  
24 HSL-10-A.

25 MR. MORFORD: No objection.

1 THE COURT: That will be admitted.

2 MR. TRAFICANT: The next one would be the  
3 survey performed on the boat as testified by Mr. Al Lange,  
4 and from the Virginia Marine Institute, known as Defense  
5 Exhibit AL-101.

6 MR. MORFORD: I believe that's already in  
7 evidence.

8 MR. TRAFICANT: If it is, give me the number.

9 MR. SMITH: We have it as being in.

10 MR. TRAFICANT: Then it is a Joint Exhibit?

11 MR. SMITH: No.

12 THE COURT: AL-101, it's a defense exhibit,  
13 and it's in evidence already.

14 MR. TRAFICANT: Okay. They said they had it  
15 in as well.

16 MR. MORFORD: No.

17 MR. SMITH: We had it that the Congressman  
18 had previously had that document admitted into evidence.

19 THE COURT: Right. It's in.

20 MR. TRAFICANT: It's in as evidence.

21 THE COURT: Yes, it's in.

22 MR. TRAFICANT: Well, you know -- it's no  
23 walk in the park around here.

24 THE COURT: That's all right.

25 MR. TRAFICANT: The next one, Defense Exhibit



1 MC-100, a letter from Mark Steven Colucci to the Sugar  
2 family. It was testified to February 11th, 2000, relative  
3 to fees.

4 MR. MORFORD: No objection.

5 MR. TRAFICANT: That's Defense Exhibit  
6 MC-100. The next one is Defense Exhibit S-903, which deals  
7 with KAS Enterprises and Ohio Secretary of State  
8 information as testified to by Mr. Robertson on direct.

9 THE COURT: MC-100 will be admitted.

10 MR. TRAFICANT: Thank you. The next one was  
11 Defense Exhibit S-903. It is brought in by Mr. Robertson  
12 from the Ohio Secretary of State, business services queries  
13 relative to KAS Enterprises and its activities, and its  
14 package therein.

15 MR. MORFORD: No objection.

16 MR. TRAFICANT: The next exhibit will be  
17 Defense Exhibit S-904, which would be the following year.

18 MR. MORFORD: No objection.

19 MR. TRAFICANT: Relative to the same matter  
20 with the Ohio Secretary of State.

21 I now move into evidence Defense Exhibit S-27, the  
22 Federal Bureau of Investigation 302 dated 1-24-2000.

23 MR. MORFORD: Objection. Hearsay.

24 MR. TRAFICANT: It's been testified by the  
25 federal government, and all witnesses, and corroborated for

1       its veracity.

2                   THE COURT:  Not in terms of the admission of  
3       that document into evidence.  It's a hearsay document.

4                   MR. TRAFICANT:  It was read into evidence.

5                   THE COURT:  Well, not the entire document.

6                   MR. TRAFICANT:  I believe --

7                   THE COURT:  There is testimony regarding this  
8       302 that's been elicited, and that's evidence in the case,  
9       but in terms of the document itself, it's like any other  
10      hearsay --

11                  MR. TRAFICANT:  Agent Bushner --

12                  THE COURT:  If you can show it is an  
13      exception to the hearsay rule or it's not hearsay, you can  
14      bring it in.

15                  MR. TRAFICANT:  It is not hearsay because  
16      Agent Bushner testified to it, and Agent Bushner confirmed  
17      it, and he wrote it.  He was the author and admitted having  
18      written it.  And he was extensively examined and  
19      cross-examined.

20                  THE COURT:  Okay.  Well --

21                  MR. TRAFICANT:  How can it be hearsay if it  
22      is the author of the document who has presented it and they  
23      presented him in court to testify to it?

24                  THE COURT:  I will go back and review his  
25      testimony, and I have no trouble doing that, and we'll look

1 at it. So you'll have to hear about that one in the  
2 morning. I can't do that right now.

3 MR. TRAFICANT: I would like to have the  
4 Defense Exhibit --

5 THE COURT: S-903 and S-904 will be admitted.

6 MR. TRAFICANT: -- Defense Exhibit HSF-G,  
7 which is Sinclair Vending, admitted into evidence.

8 THE COURT: Just hand it over to the --

9 MR. TRAFICANT: They have a copy of it.

10 THE COURT: -- government.

11 MR. SMITH: Make sure there's nothing else in  
12 it.

13 MR. MORFORD: I would object on relevance  
14 grounds, in that the only witness that I believe has  
15 testified about these documents is the last witness, who  
16 said he saw minimal activity and didn't do anything more  
17 with it.

18 MR. TRAFICANT: No. So did the banker and so  
19 did Mr. Sinclair.

20 This now is a document that reflects the activities  
21 of Sinclair Vending Company, and I move that HS -- Defense  
22 Exhibit HSF-G be admitted.

23 THE COURT: Okay. I'll look at it tonight  
24 against the testimony of the bankers -- all the bankers,  
25 sir? Bankers -- both bankers?

1                   MR. TRAFICANT: The bank, also Mr. Robertson,  
2                   also Mr. Sinclair, admitted to Sinclair Vending.

3                   MR. MORFORD: But not to these documents.

4                   THE COURT: But it's the documents at issue  
5                   that haven't been identified, I don't believe.

6                   MR. TRAFICANT: These were, in fact,  
7                   discussed with Mr. Robertson.

8                   THE COURT: Okay. Well, there are always  
9                   steps that have to be taken, and I'll just go through this  
10                  and see whether the steps were taken in this case. But I  
11                  have to review the testimony.

12                  MR. TRAFICANT: We have established there  
13                  were five separate accounts, and now Sinclair Vending was  
14                  one of those accounts. It's been established to have  
15                  minimal activity and the cash activity.

16                  THE COURT: Right.

17                  MR. TRAFICANT: It does speak to, in fact,  
18                  elements of the case, and to leave Sinclair Vending out  
19                  would deny the defendant an opportunity to establish upon  
20                  closing argument motive, and having the jury not even be  
21                  able to see these documents.

22                  THE COURT: I'll just have to see who  
23                  identified the document. Step one, that's the first step.

24                  THE COURT: Anything further, Congressman?

25                  MR. TRAFICANT: I think we have the -- I'd

1       like to offer into evidence, if it hasn't been offered in,  
2       due to a spring fancy, Defendant's Exhibit HSL-1-E. It may  
3       have been established, it is a number of checks to KAS  
4       Enterprises, 11 Overhill. They are utility checks and rent  
5       checks that have not been brought in by the government,  
6       that have been testified to by -- one was stricken, the one  
7       that was illegible.

8                   MR. MORFORD: Can I see it?

9                   THE COURT: Just let them look at it. When  
10       he was on the stand, I think you went through these with  
11       him.

12                  MR. TRAFICANT: Yes, I did. I went over the  
13       screen with him.

14                  MR. MORFORD: Your Honor, I have no objection  
15       to the actual checks except the last one, which was  
16       stricken as illegible, but I do have an objection to the  
17       fax from Mindy Davis or Mindy Davies to Congressman  
18       Traficant, saying "Please refer to the second page of  
19       documents" and whatnot. That's just a communication  
20       between the bank and him that would not be evidence.

21                  THE COURT: But you don't have trouble with  
22       the checks.

23                  MR. MORFORD: Correct.

24                  MR. TRAFICANT: I ask the Mindy Davies memo  
25       be included because it was part of the subpoena, and it was

1 specifically asked relative to the joint account as to the  
2 ability of either/or without the permission of one another,  
3 and she did make reference to it in her own writing and did  
4 sign it.

5 MR. MORFORD: And I would object to this  
6 statement on this fax as hearsay. The records come in; the  
7 fax should not.

8 THE COURT: Well, first of all --

9 MR. TRAFICANT: Do you want to see it?

10 THE COURT: Let's just say that the records  
11 are coming in. That takes care of that part. And I'll  
12 look at the fax.

13 MR. TRAFICANT: Take a look at this. There's  
14 a specific request along with the subpoena.

15 THE COURT: Okay.

16 MR. TRAFICANT: And it has a specific  
17 response from a banker.

18 THE COURT: Okay. She was here several  
19 times.

20 MR. TRAFICANT: Yes. And she acknowledged  
21 that was hers.

22 MR. TRAFICANT: So I not only got the opinion  
23 from other outside sources, I also got it from the bank  
24 itself. And I wanted to include it in the record. It is a  
25 reasonable request.

1 THE COURT: I'm trying to find what it is  
2 she's referring to, because when she talks about a second  
3 page of documents within KAS Enterprises --

4 MR. TRAFICANT: That's already been admitted  
5 as a corporate resolution.

6 THE COURT: So it's not related to these --

7 MR. TRAFICANT: It is related to those checks  
8 and the corporate resolution.

9 THE COURT: Okay. We'll take the whole  
10 thing, Congressman. The whole thing can come in.

11 She did testify at one point to one of these. We can  
12 go back.

13 It may confuse the jury a little because it's not  
14 attached to the place where the corporate resolutions are.

15 MR. TRAFICANT: If the Court would prefer, I  
16 would reidentify the fax and put it on the corporate  
17 resolutions and carry that number that you brought in which  
18 was --

19 THE COURT: We can't really do that. I think  
20 that's already admitted, isn't it?

21 MR. MORFORD: Not only that, the fax header  
22 shows it was attached to these checks.

23 THE COURT: Okay.

24 MR. MORFORD: This is a business record.

25 THE COURT: We'll just leave it right there.

1 MR. TRAFICANT: Fine.

2 THE COURT: It's admitted.

3 MR. TRAFICANT: This is admitted?

4 THE COURT: Yes, it is admitted, the whole  
5 thing.

6 MR. TRAFICANT: Thank you. I also would like  
7 admitted Defense Exhibit EXP-1, March 2000, April 2000,  
8 accounts of R. Allen Sinclair into his 036 account.  
9 Defense Exhibit EXP-1.

10 MR. MORFORD: I would not object as to  
11 authenticity or hearsay. They're clearly business records,  
12 but they're not relevant. These are all checks that were  
13 written after Allen Sinclair had stopped kickbacks, and  
14 there has been nothing.

15 MR. TRAFICANT: After alleged kickbacks.

16 MR. MORFORD: There's nothing to put any  
17 relevant context to the documents.

18 MR. TRAFICANT: I think it speaks to the  
19 testimony brought forward by Mr. Robertson.

20 MR. MORFORD: But he has to have a relevant  
21 basis to put it into evidence.

22 MR. TRAFICANT: That is a relevant basis.

23 THE COURT: Just pass them right up here,  
24 Congressman, and I'll take a look at them.

25 MR. TRAFICANT: I'll do just that.



1           Now, not to interrupt Your Honor, but on Defense  
2           Exhibit HSL-1-E there was one illegible check, and it was  
3           agreed to be stricken by both parties.

4           THE COURT:   Right.

5           MR. TRAFICANT:   And I have removed it.

6           THE COURT:   Thank you.   I have to go back and  
7           look at Mr. Robertson's testimony.   It will take a minute.  
8           You can keep going if you want to.   I'm just running the  
9           screen.

10          MR. TRAFICANT:   Pardon?

11          THE COURT:   You can keep going if you want  
12          to.

13          MR. TRAFICANT:   I thought you were looking at  
14          it.

15          THE COURT:   Well, I'm just taking it back,  
16          and I don't know how to do it real quickly.   There's a way,  
17          but I don't know what it is.

18          MR. TRAFICANT:   I don't want you to do it  
19          quickly if it's in my favor.

20          THE COURT:   But if you have some more  
21          exhibits, go ahead, because I can listen while I do this.

22          MR. TRAFICANT:   Also Exhibit HSL, make it  
23          10-C, it is a KAS Enterprises account dated 11-30-98, and  
24          it is an account number form listing Allen Sinclair's  
25          signature only, dated 11-30-98, an account agreement

1 combination, to further corroborate the corroborating  
2 resolution.

3 MR. MORFORD: Has it ever been shown to us?

4 MR. TRAFICANT: Yes. It has been shown to  
5 Mr. Robertson. And part of that testimony -- also, Defense  
6 Exhibit --

7 THE COURT: We don't have that as shown to  
8 any witness.

9 MR. MORFORD: I don't think it was.

10 MR. TRAFICANT: Your Honor, this is KAS, it's  
11 already been introduced as evidence. This is the  
12 supporting document that shows in its simple form how it  
13 was handled and how it was signed. To exclude it would be  
14 to deny that which you already brought in.

15 THE COURT: Well, but you never had anyone  
16 identify it. It was never shown to a witness.

17 MR. TRAFICANT: It was shown to this witness,  
18 and he identified all the KAS material. This was part of  
19 the KAS material, and he testified to the signatures and  
20 the differences of the signatures.

21 MR. MORFORD: I don't have a problem, Your  
22 Honor, with respect, again, to authenticity. This appears  
23 to be a bank record. My only question is relevance then,  
24 what is it relevant to. Just because somebody testifies  
25 about it doesn't make it relevant.

1                   MR. TRAFICANT: It's additional documentation  
2 of the fact that on 11-30-98 there was a KAS started by the  
3 name -- under the name of R. Allen Sinclair, and then on  
4 12-11-98 now it's R. Allen Sinclair and Kimberly Ann  
5 Sinclair.

6                   It speaks to the two previous that were admitted, and  
7 also the lease that has been admitted under Joint Exhibit.

8                   MR. MORFORD: On that grounds, we have no  
9 objection.

10                  THE COURT: Okay. If they don't object,  
11 we'll let it in, but generally you have to have these  
12 things identified.

13                  MR. TRAFICANT: This is Defense Exhibit  
14 HSL-1-D and HSL-1-HDC, D as in David.

15                  MR. MORFORD: Your Honor, one of the problems  
16 we're having is Congressman Traficant is giving us bulk  
17 stuff and then he's marking pages, and later we don't know  
18 what the pages are to mark them.

19                  What I'd ask is he give us copies of these things  
20 he's now putting in, because to try to find them in this  
21 big bulk of stuff and then figure out if it's the same --

22                  THE COURT: Right. If you give them a  
23 number, then we'll try and find them.

24                  MR. TRAFICANT: Yes, I will. Your Honor, let  
25 me say this: I received a bunch of documents I've yet to

1 look through just thrown into boxes, and it would take me  
2 three months to sort out. I've tried to be as practical as  
3 I could with my submission of evidence, and I will continue  
4 to do so.

5 THE COURT: Thank you.

6 MR. TRAFICANT: I also ask now that you move  
7 for mistrial and place all three attorneys in jail, place  
8 them in custody, and bind them to a chain link fence, and  
9 have them flogged.

10 THE COURT: It is really getting late in the  
11 afternoon, Congressman. I don't think I can find this  
12 business in the record that you're asking for, but I'll  
13 keep this along with the other things I have to look at  
14 tonight, the ones of the checks after February 22nd. Okay?  
15 I'm just not able to find --

16 MR. TRAFICANT: Your Honor, those were the  
17 testimony relative to at some point a behavior change  
18 occurred.

19 THE COURT: Right.

20 MR. TRAFICANT: And they were brought on the  
21 screen and brought to the attention of the examiner who was  
22 hypothetically able to answer the questions of the  
23 prosecutor, but not able to author hypotheses to my  
24 questions.

25 THE COURT: Do you have any more exhibits to

1 offer tonight?

2 MR. TRAFICANT: I'm looking. I am looking.  
3 I find myself wanting.

4 THE COURT: Okay.

5 MR. SMITH: Your Honor, the government has  
6 two while the Congressman looks.

7 THE COURT: Okay.

8 MR. SMITH: First of all, Exhibit 1-50, which  
9 is a summary chart offered under Rule 1006, done by Witness  
10 Robertson this afternoon, summarizing certain aspects of I  
11 believe it was HSL-F, which is a pretty thick stack of  
12 documents.

13 We offer --

14 MR. TRAFICANT: Make it a Joint Exhibit.

15 THE COURT: Okay.

16 MR. SMITH: And --

17 THE COURT: It will be admitted as a Joint  
18 Exhibit.

19 MR. SMITH: And also Exhibit 1-51, Your  
20 Honor, which was the series of checks shown to  
21 Mr. Robertson having to do with his chart and, you know,  
22 demonstrating that the \$2500 deposits on his chart actually  
23 were explained by deposits of checks. And with respect to  
24 those checks, we've obtained at lunch time, because this  
25 was surprise testimony on direct, we did get a certificate

1 of authenticity from the Sinclair law firm with respect to  
2 those checks, if the Court wishes to see it.

3 MR. TRAFICANT: Offer them as a Joint  
4 Exhibit.

5 THE COURT: Okay. They'll be admitted as a  
6 Joint Exhibit.

7 MR. SMITH: And 1-50 and 1-51, that's all we  
8 have to offer today, Your Honor.

9 THE COURT: Okay. What do you say,  
10 Congressman, do you have some more there?

11 MR. TRAFICANT: I'm finished.

12 THE COURT: Okay. I anticipate being able to  
13 rule today on your motion regarding defense witnesses  
14 Johnson, Terlecky, and Kovachik. I got a lot of work done  
15 on it, I didn't quite finish it. I will try to get that  
16 out this evening.

17 Anything else?

18 MR. TRAFICANT: Your Honor, I'd like to  
19 comment on the ruling of Russell Saadey, Jr., where his  
20 brother-in-law in a state of nervousness and, in fact,  
21 fractured behavior, as evidenced through the testimony,  
22 that should have been brought in on the hearsay exception,  
23 and that should be allowed, and I object to the fact that  
24 you have completely dismissed that evidence. That was made  
25 right after an interview with the FBI agent, he was

1 completely nervous and in an unnerved form, and did make  
2 declarations against his interest. That, in fact, should  
3 be admissible under the hearsay rule.

4 THE COURT: I ruled on that. Let me also say  
5 that the other outstanding issue which I've also got to  
6 simply write down has to do with two photographs that we  
7 didn't admit, this is left over from last week, but I think  
8 it tidies everything up then. We will have gotten  
9 everything ruled on that was out there. But there were two  
10 photographs, and so I'll try and get those rulings out.

11 But I think the ones that would involve you more  
12 would be the ones regarding Johnson, Terlecky, and  
13 Kovachik.

14 MR. TRAFICANT: And when will you rule on  
15 those? When will you rule those out?

16 THE COURT: Well, Congressman, I'm going to  
17 rule on those.

18 MR. TRAFICANT: Why don't you save us time  
19 and rule them out, and let's get going. You know you're  
20 going to rule them out.

21 THE COURT: No, no. I do have to take my  
22 time and consider everything.

23 MR. TRAFICANT: I'm sure you do.

24 THE COURT: So I hope it will be this  
25 evening. Today, sometime before midnight, it will happen.

1           Anything further? We'll see you all at 9:00.

2           MR. MORFORD: One thing, Your Honor. We  
3 would like to know who the witnesses are tomorrow, because  
4 it will save the downtime with the jury that we had today.

5           MR. TRAFICANT: I have no idea at this point.

6           THE COURT: Well, you may want to hold on to  
7 Johnson and Terlecky. I don't know, when you get this  
8 ruling you ought to go on the computer tonight and look.

9           MR. TRAFICANT: I'm not going to have Johnson  
10 or Terlecky come back up here again until you rule.

11          THE COURT: Well, that's fine. I'll have to  
12 rule. I'm going to rule today regarding them.

13          MR. SMITH: But that's not his call to  
14 make --

15          MR. MORFORD: Your Honor, there is another  
16 thing. In addition to Mr. Barlow, Mr. Marchese or  
17 "Marchese" and Ms. Kovachik were both here in the  
18 courthouse today telling people they were going to testify  
19 again. Again, they've already testified, the Congressman  
20 said he had completed his examination. Unless something  
21 new and different has arisen they could not have known  
22 about or asked them about at the time, under the rules,  
23 he's not permitted to call them again.

24          MR. TRAFICANT: Miss Kovachik is not here as  
25 a potential witness. Mr. Marchese is on an unrelated



1 matter that deals with photographs.

2 THE COURT: Okay. Well, Ms. Kovachik, she is  
3 still --

4 MR. TRAFICANT: Still is eligible.

5 THE COURT: Right. She's still eligible.

6 MR. TRAFICANT: I'm keeping her here in the  
7 event he let her in.

8 THE COURT: Now we need to know who your  
9 witnesses are going to be, because even if all three of  
10 these people who I'm doing orders on, and the photographs,  
11 came in, we still have a day tomorrow, so we need to know  
12 who you are going to call.

13 MR. TRAFICANT: At this point I am trying to  
14 reach several people, and I don't know if I will be able to  
15 reach them. I will try feverishly tonight to reach them,  
16 and if I do, I will have them here.

17 MR. MORFORD: Can we find out who he's trying  
18 to reach? At least then we can save the time in front of  
19 the jury tomorrow.

20 MR. TRAFICANT: I'm not wasting the time of  
21 the jury. They took seven weeks. I'm in my fifth or sixth  
22 day, Your Honor.

23 THE COURT: That's true.

24 MR. TRAFICANT: And I'm moving closer to  
25 close here.

1 THE COURT: Okay. The thing is though  
2 that --

3 MR. TRAFICANT: They will know by tomorrow  
4 morning.

5 THE COURT: Yeah, but if the jury comes down  
6 here, we can't have them come down for an hour and then go  
7 back home. Some of them come more than two hours each way  
8 in order to come here.

9 So if you have any more witnesses, tomorrow would be  
10 a day to get a bunch of them down here.

11 MR. TRAFICANT: I'm going to do my best. But  
12 you keep denying them the opportunity to testify, then you  
13 say I have no witnesses.

14 THE COURT: Well --

15 MR. TRAFICANT: I know, life is tough.

16 THE COURT: Trial lawyers have a hard time.

17 MR. TRAFICANT: I'll tell you, isn't it  
18 something?

19 THE COURT: It is. We'll see you all  
20 tomorrow at 9:00.

21 (Trial adjourned at 4:34 p.m.)

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## 1 C E R T I F I C A T E

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5 I certify that the foregoing is a correct transcript  
6 from the record of proceedings in the above-entitled  
7 matter.

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Heidi Blueskye Geizer, RMR, CRR Date

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1	DIRECT EXAMINATION OF MELINDA MINCHER DAVIES	
2	BY MR. TRAFICANT.....	5450:9
3	CROSS-EXAMINATION OF MELINDA MINCHER DAVIES	
4	BY MR. MORFORD.....	5456:1
5	REDIRECT EXAMINATION OF MELINDA DAVIES	
6	BY MR. TRAFICANT.....	5459:1
7	DIRECT EXAMINATION OF MICHAEL ANTONOFF	
8	BY MR. TRAFICANT.....	5460:10
9	DIRECT EXAMINATION OF MICHAEL ROBERTSON	
10	BY MR. TRAFICANT.....	5463:21
11	CROSS-EXAMINATION OF MICHAEL L. ROBERTSON	
12	BY MR. MORFORD.....	5518:6
13	REDIRECT EXAMINATION OF MICHAEL L. ROBERTSON	
14	BY MR. TRAFICANT.....	5568:17
15	AFTERNOON SESSION.....	5518:1
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